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Transcript of Proceedings of the Eighty-First Annual Meeting of the North Dakota State Bar Association

North Dakota State Bar Association

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**TRANSCRIPT OF PROCEEDINGS
Of The
EIGHTY-FIRST ANNUAL MEETING
Of The
NORTH DAKOTA STATE BAR ASSOCIATION**

**Bismarck, North Dakota
June 18-19, 1981**

OFFICERS

J. PHILIP JOHNSON	President
PAUL G. KLOSTER	President-Elect
JON R. KERIAN	Immediate Past President
CHRISTINE A. HOGAN	Secretary-Treasurer
JOEL W. GILBERTSON	Executive Director

**THURSDAY
JUNE 18, 1981**

(Whereupon, the proceedings commenced at 9:23 A.M. as follows:)

PRESIDENT J. PHILIP JOHNSON: The 60th Annual General Assembly of the Unified Bar of the State of North Dakota is now in session. This is also, as you may be aware, the 81st Annual Meeting of our State Bar Association.

And I will ask Bob Dahl of Grafton, our ABA Delegate, to lead the Pledge of Allegiance.

MR. ROBERT E. DAHL: Will you join with me, as the very erudite Past Presidents of our Association and now Judge Kerian would say, "Pledge of Allegiance *ad patria*."

(Whereupon, the Pledge of Allegiance was led by Mr. Robert E. Dahl.)

PRESIDENT JOHNSON: I will now ask the Reverend Marvin Mutzenberger, Campus Pastor of Bismarck Junior College, to offer the invocation.

REVEREND MARVIN MUTZENBERGER: Listen, I would rather not have you stand, because I want to do something a little more creative. You need the exercise though.

For a couple of years I've been experimenting with some writing of parables. And often at invocations and benedictions, which we are obligated to do with people, I share a parable. A parable is a story that needs interpretation, which I'm not going to do. But it's a way that I want to lay one on you to open your day.

Once there was a culture where people were mean to one another. Some people were meaner than others. And, of course, some were injured more than others. Everyone agreed there was a lot of hurt. They commissioned a committee to solve the problem. The committee suggested more toys. But people then used the toys for weapons, and people were still getting hurt. They proposed and began to practice religion. And now their culture experienced holy wars, and people were still getting hurt. Attitude adjustment was introduced. Many attitudes

would not adjust. A rule system which evolved was agreed to. Nobody liked all the rules. Some people still got hurt, but not as much. Maybe that was the best they could do at that time in their culture.

Gracious Father, we thank you for the people who make rules, for the lawyers who work with them in just and merciful ways, and for the awesome job which the judges perform in our culture.
Amen.

PRESIDENT-ELECT PAUL G. KLOSTER: Thank you, Reverend Mutzenberger.

Ladies and gentlemen, it is my pleasure to make the perfunctory introductions and presentation to you of J. Philip Johnson, a very tireless president that you have had working for you in an efficient manner during the past year, and who will now present his address. Phil.

(Applause.)

PRESIDENT JOHNSON: Thank you very much, Paul. You forgot some of the rest of the complimentary remarks I had.

Chief Justice Erickstad, Justices, Judges, Officers of the Bar, colleagues. It's my privilege this morning to follow a line of distinguished presidents of this Association in addressing you at this 81st Annual Meeting.

In organizing my remarks for this morning I have placed them under basically three headings. The first heading: The practical benefits of our Association, or what have we done for you lately? Second: The legislative and judicial arena, or is it still legal to practice law? And third: Programs for the future, or is tomorrow here already?

First of all, dealing with the category of practical benefits, you would think that a mere Association with so fine and talented a group of people would be benefit enough for your license fees and your membership in this Association. But there are those who expect other practical and immediate benefits. I think we have a few to offer. And let me mention some that have taken place over this past year.

We have had a special committee that included Dave Evans, Casey Chapman, and Frank Knox that met with the Workmen's Compensation Commission this year and obtained an increase in the recommended fee level from \$40 to \$50 an hour. By no means outrageous, but at least an increase. The Association pressed for revision of the fee schedule applicable for indigent defense criminal cases, and the Judicial Counsel increased the recommended fee from \$35 to \$50 an hour.

This year, also, our Statewide Lawyer Referral Service became operational, and referrals are now being made out of our state office at the rate of several hundred a month. I think it is and will be one of our more successful programs.

The Gavel, our Associations' monthly publication, has been expanded and improved, and includes even Supreme Court case summaries.

The Association's Continuing Legal Education Committee has sponsored some six seminars covering over 57 credit hours during this past year.

And, finally, in the area of practical benefits, you will be hearing a further explanation and report from our Group Insurance Committee, which has a new life insurance group program which I think will be of practical benefit to all of the membership. There's been a lot of effort devoted to developing and establishing that particular program.

All in all, I would suggest to you that you are getting more than simply a certificate to hang on the wall, attractive though that may be, from your membership in this particular Association.

The second area I want to touch upon this morning is the legislative and judicial arena. As you may be aware if you read the papers, there has been a legislative session this year. And during those legislative years the action or inaction of the legislative assembly absorbs a great deal of the attention of the Bar leadership. I think our legislative efforts bore fruit in a number of areas. Perhaps most significantly, House Bill 1060 was passed, which reorganizes the county courts and provides state funding for many different court functions. Our bills proposed on Judicial Nominating Committee and Prepaid Legal Services were adopted substantially intact. The Judicial Appropriations Bill survived without substantial cuts, and even with the addition of another judge for Williston. The judicial salaries were adjusted, I think to a more realistic level. And a study of our very inadequate judicial retirement program was authorized.

In analyzing our legislative policy now and in the future we must consider rather carefully the items we support or oppose. As an Integrated Unified Bar we cannot function as a lobbying group with a very narrow self-interest. To the extent that we are perceived as remitting only the practicing Bar and not the broader aspects of our system, we are subject to criticism. Surprisingly enough, some legislators and people are unhappy with, quote, "Lawyer Bills." As indicated this year I think we are, in fact, more effective when we take a somewhat broader view of our responsibilities.

Turning from the legislative area for a moment, I'd suggest that our relationship with the judiciary in general and the supreme court in particular is really essential to our functions as a Bar Association and our obligations as officers of the court. But this is not to say that ours need be a totally subservient relationship. There is just too much talent and independence within our Association for it to function as other than an active participant within our judicial system.

One of our more controversial aspects and activities this year was administration of judicial qualifications among lawyers for contested judicial elections. Polls attempted to make a more detailed evaluation of the qualifications of the respective candidates than we have attempted in the past. In fact, in each of the five contested judicial district elections the candidate receiving the most favorable evaluation by the lawyers was elected. The evaluations were not always happily received, but I think they were of significance.

As part of my preparation of this particular report to you, I reviewed the addresses of our previous presidents over the past decade or more, perhaps the only occasion when those august and erudite addresses are subsequently reviewed. But I'd like to quote to you a few words from the past regarding our relationship with the supreme court.

Quote: "I would recommend that this Association in the next few years do [sic] not attempt to woo the legislature to gain authority in various fields, but instead work through the rule-making power of the supreme court and act in that way rather than through the legislature. The court will be reluctant to exercise its power, which is understandable. But I would urge that you attempt to keep the pressure on to gain many of the reforms that we feel are necessary simply through the rule-making power of the court rather than through the legislature."

That was Pat Conmy speaking to this Association as its president at its convention in Grand Forks some nine years ago. Since that time we have had considerable activity in the rulemaking area. And there are some that feel

perhaps that the rulemaking may have gone too far. The implementation of the Judicial Article to the Constitution has certainly resulted in a host of new rules in a variety of areas. There are perhaps those who feel the court may be assuming some functions traditionally performed by the Bar. It is now my privilege, and will be over this following year, to chair a committee which is examining the relationship between the court and the Bar with a view to establish the areas of responsibility in which the Bar will function in our unified judicial system. If the system is to function, we need both a strong judiciary and a strong Bar. A more clearly understood definition of a bar association's functions will avoid considerable misunderstanding and assure better coordination in the future.

Now, the third area, looking at the future. Beyond reminiscing over the past year, we must look forward to those things that are to come. You will be receiving a report at this meeting from Kermit Bye on a fee arbitration plan which has been developed by his committee and which offers a very effective response to attorney-client problems in this area. Fred Whisenand will report on the ongoing status of our Specialization Study. Bruce Bohlman and John Walstad will explain proposals on the Criminal Defense Study which their special committee concluded.

A project which I view with special interest is the effort to expand our existing section organization on activities. A new bylaw regarding the organization and operation of sections has already been drafted. Organizational meetings for three proposed new sections, Corporation and Business, Taxation, and Family Law, are scheduled for this session — in fact, immediately following this meeting. And Joe will give you specific information as to the room designations. And I hope all of you will participate if you have the least interest in practice in one of those areas.

These sections provide an opportunity to improve levels of local practice, sponsor ongoing continuing education, and maintain contact with national professional associations in these areas of practice.

In concluding, I must report one unhappy event to you. Our very capable Executive Director, Joel Gilbertson, has submitted his resignation. And effective September 1, he will join the Pearce Firm here in Bismarck in private practice. I have warned Harold Anderson and the other members of the Pearce Firm of a potential grievance complaint filed against them. However, they are apparently conniving in their efforts to obtain Joel's services. We have named a committee of past presidents of the Bar to consider applicants for that position. Joel's successor will have a very difficult task in meeting the standards of achievement that Joel has established at the office of the State Bar.

Thank you very much.
(Applause.)

PRESIDENT—ELECT KLOSTER: Thank you, Phil. I'm sure that we all are appreciative of those remarks.

Phil puts a lot of thought into each task that he undertakes. And as I'm sure you're aware, he's done a great job.

Joel has also done a very excellent job. And I will sorely miss him. And I'm sure perhaps more so than Phil will. Phil will remain on the Board, so he is available to continue with his good counsel and advice.

I think that over the past years, and particularly this past year, we have seen many foundations, so that I am confident that the Association will be able to function well in the future. And we will certainly make an effort to do so, and particularly with the help of each of you.

Joel, would you care to make further announcements at this time?

EXECUTIVE DIRECTOR JOEL GILBERTSON: Thank you, Paul. I am going to announce where the section meetings are that Phil mentioned. I just want to note for a second the sections — a section of the Bar Association is a little bit different than a committee of a Bar Association. A section usually has its own bylaws, its own constitution, has the authority to assess its own dues; therefore, as a perfect example is the Real Property, Probate and Trust Law Section that we already have. It has a lot more flexibility to get involved in many more programs, and for someone who is interested in that area, provides a great outlet for your interest and really, as attested by, for example, the title standards we have now, can really get a lot accomplished.

I see that Bert Wheeler is here and Sparky Gierke. They must be running for something since they're here at the General Assembly. It's nice to see them. No, I'm sure they are always at the General Assembly.

Well, the section meetings are going to be — and I will read off a list of the rooms. And really if you have an interest in any of these areas, please try to attend them. The meetings won't last long. They will be about half an hour at the most, probably more like fifteen minutes. And we have people in charge of each meeting. And they'll sort of go over just some organizational background for adopting a constitution and bylaws and getting the ball rolling, so to speak.

One of the old sections, and very active section, the Real Property, Probate and Trust Law Section will meet at 12:15 in the Augsburg Room.

The new Section on Taxation will meet in the Baden Room.

The new Section on Corporation and Business will meet in the Cologne Room.

These three rooms are located in the older section of the Kirkwood in the basement. There are three meeting rooms down there. So you'll get a little exercise before the luncheon. That's where those section meetings are.

We have one more section meeting. The Section on Family Law will be in Room 254. Room 254 is also in the old section. It's a meeting room. You go down to the old section and take the elevator by the pool up to the second floor and you will find 254.

And then just some more meetings. We have several members of our Board of Governors that will be going off the Board, and we need some new district presidents, who are ex-official members of our Board of Governors.

The East Central District Bar Association will hold a meeting right after the luncheon this afternoon. It will be about 1:15, sometime between 1:15 and 1:30. We will meet in the Essen & Frankfurt Room. That is the room we will have the luncheon in. So right after the luncheon there will be plenty of room in that particular room, and they will meet in the corner someplace.

Tomorrow after the election of the President-Elect and election of Secretary-Treasurer, the election of officers. Immediately following that, the South Central District will meet to elect officers in the Dresden Room. The Dresden Room is this room. And that will be the same room that we have the election of officers. So just stick around after the election.

The Northwest District will also be electing a new district president. They will meet in the courtyard after the election tomorrow.

That's all the announcements I have for now. If you have some announcements that you feel should be made, either try to catch me, or if you cannot contact me, see someone at the registration desk.

Thank you.

PRESIDENT JOHNSON: Thank you very much, Joel.

I would note a couple of announcements, additional announcements. First of all, I have appointed Randy Lee, Herman Weiss, and Vern Neff as the Resolutions Committee. You can see Randy if you have any proposed resolutions. They are supposed to be announced previous to today and previous to the Assembly on Friday where they would be acted upon.

The Chair will first of all entertain a motion that the rules be suspended and that the minutes of the last annual meeting not be read, but accepted as filed in the Executive Office of the State Bar Association. Is there such a motion? Bob Dahl?

MR. DAHL: We want 'em read.

PRESIDENT JOHNSON: No. I think Mr. Shark had that motion.

MR. MYER R. SHARK: I so move.

PRESIDENT JOHNSON: For the benefit of our esteemed Court Reporter, Mr. Norman Mark, who is I think in pretty good shape this morning, — Are you, Norman? — but would you please announce your name and your town of origin?

Mr. Shark, first of all.

MR. SHARK: Myer Shark, Fargo, North Dakota.

PRESIDENT JOHNSON: Is there a second?

MR. FRANCIS C. ROHRICH: Clem Rohrich, Linton, North Dakota.

PRESIDENT JOHNSON: Thank you. Any discussion? If not, all in favor? Opposed? Carried.
(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: Chair will also entertain a motion that the rules be suspended and committee reports not requiring positive action from the Assembly be accepted and adopted without formal action upon filing with the President or Executive Director. These are the reports that were included in your convention package. There will be a limited number of reports that will be given orally this morning. May I have such a motion? Come now. Lawyers aren't so hesitant.

MR. MYER R. SHARK: I so move.

PRESIDENT JOHNSON: Mr. Shark is going to get his name in the minutes all by himself.
Is there a second to the motion?

MR. DAVID R. BAILLY: David Bailly, Fargo. I second that motion.

PRESIDENT JOHNSON: Thank you, Mr. Bailly.
Any discussion? If not, all in favor signify by saying aye. Opposed? Carried.
(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: One more motion. We will ask for a motion to implement our traditional practice that business requiring positive action by the General Assembly be offered today and laid over for action at the second business session on Friday. Is there a motion to that affect? Somebody other than Myer Shark.

MR. DENNIS E. JOHNSON: Dennis Johnson, Watford City. I so move.

JUDGE THOMAS W. NIELSEN: I will second. Thomas W. Nielsen, LaMoure.

PRESIDENT JOHNSON: Thank you. Any discussion? If not, all in favor signify by saying aye. Opposed? Carried.
(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: Well, that's good. We got the controversial matters disposed of.

It is my privilege at this point in our General Assembly meeting to present to you an individual with whom I think you are all familiar, but an individual that has over the past several years occupied the prime administrative seat in our judicial system with great capability and diligence. Would you welcome this morning for his State of the Judiciary Address the Honorable Ralph Erickstad, Chief Justice of the North Dakota Supreme Court.
(Applause.)

CHIEF JUSTICE RALPH J. ERICKSTAD: Thank you all. Thank you, Mr. President Phil Johnson, President-Elect Paul Kloster, Executive Director Joel Gilbertson, Secretary Christine Hogan, State Delegate Bob Dahl, and Pastor Mutzenberger, ladies and gentlemen of the Bar Association and guests. It's a pleasure to be back with you again this year.

My theme today extends the simple theme I discussed with you last year. Together we have done in the past, and we are doing in the present, and we will continue to do in the future, great things within the Bar and the judiciary to make our time a better time in which to live. I speak to you in praise of the cooperative work of the lawyers of North Dakota with the judges of North Dakota for the improvement of judicial services to the people of North Dakota.

Our joint efforts to improve our judicial system through legislative action have born fruit. A restructuring of the county court system is now a reality through the passage of House Bills 1060, 1061 and 1038. That this has occurred is almost a miracle. The State Bar Association and its leaders have been in the vanguard in this effort.

Your President, Phil Johnson of Fargo, and your President-Elect, Paul Kloster of Dickinson, came into Bismarck to testify before major committees at crucial times. Your Secretary, Christine Hogan, was a great pinch

hitter. And your Executive Director, Joel Gilbertson, was Mr. Reliable himself. Two others who testified at a crucial time on behalf of House Bill 1060 were Bob Heinley of Carrington and Swain Benson of Bottineau. Helpful lawyer members of the Senate Judiciary Committee were Herschel Lashkowitz and Wayne Stenehjem. Helpful lawyer members of the House Judiciary Committee were Pat Conmy, Chairman, Kelley Boyum, William Kretschmar, Earl Pomeroy (we also had some assistance from his brother who is, incidentally, a law student), and Craig Richie. Glen Pomeroy is the young law student, a brother of Earl Pomeroy.

David Nething, the Senate Majority Leader, provided positive support on the floor and in the Republican caucus, and William Heigaard, Tom Kuchera, Mike Unhjem, were especially helpful in their committees and on the floor of the House.

John Morrison of the Legislative Counsel Staff and Kathy Wheeler, his successor, are the lawyers who so ably drafted House Bill 1060 for the Judiciary "A" Committee during the interim.

Special thanks go to two other lawyers, one who appeared in support of House Bills 1060, 1061, and 1038 before the committees of the legislature, the Honorable Robert Wefald, Attorney General, and the other, who signed all three bills into law, the Honorable Allen I. Olson, the Governor of our state.

Going back into history a little further, I would not want to forget three other lawyers: Dick McGee, who headed up our first Advisory Committee on the Judicial Article, Harry Pearce, who was the Chairman of the first Legislative Committee, and Senator Howard Freed, who presided over the first Interim Committee. There are many other lawyers who rendered service, and I would not want to slight them. I want to thank them all. And I would like to, however, mention Kermit Bye, who provided his usual quiet and persistent voice in all aspects of our legislative efforts with great effect.

Now if I were asked to name the person who devoted the greatest effort in the last two years, since our temporary defeat in 1979, to secure the restructuring of our county court system, I would have to name former state Representative Dean Winkjer of Williston. Dean was Chairman of the Judiciary "A" Committee of the Legislative Council.

During the 1979-1981 interim, which produced House Bills 1060, 1061, and 1038, he led the presentations before the House and Senate Committees on Appropriations and Judiciary, whose members were key people in the passage of this legislation.

All of our lawyer legislators worked hard and contributed much to the success of our judicial legislative package. I don't think it would be out of order if the record would show that you showed your appreciation to them at this time.

(Applause.)

As this legislation constitutes a great improvement in our judicial system, our people owe them much.

This is an historic period in the development of the North Dakota judicial system. The 1981 legislature has presented the Bar and Bench with the unique opportunity to strengthen the North Dakota judicial system.

House Bill 1060 authorizes two significant changes. First, it provides for substantial changes in the county level courts of the North Dakota judicial system; second, it provides state funding of the major district court expenses. The implementation of both of these tasks requires your cooperation. Let me outline several areas for this cooperation.

The county court component of the North Dakota judiciary system will go into effect January 1, 1983. However, much must be accomplished before that date if the transition is to be smooth and the results to meet our common desire for improved court services. Between today and January 1, 1983, we must work together to prepare the foundation.

Let me attempt to outline three of the major preparatory steps concerning (1) multicounty agreements, (2) candidates for county judge positions, and (3) efficient local procedures.

First, section 3 of House Bill 1060 provides for multicounty agreements to be entered into by the county commissioners of two or more counties. The initiative and flexibility rests with the county commissioners regarding these agreements. The importance of these agreements cannot be overstressed. The importance to the practice of law is great.

I have asked the presiding judges of each of the judicial districts to take an interest in this process and to render assistance if requested by the counties to help them in reaching these agreements. I hope that each local bar association will offer its cooperation to the presiding judge of each judicial district in this process. I have appointed a team consisting of Luella Dunn, our Clerk of Court, William Bohn, our Court Administrator, and Larry Spears, Assistant Court Administrator, to journey to and assist any county or counties, when and if our assistance is requested, to facilitate multicounty agreements. This team concept was born out of a request already made for our assistance, relative to case load and costs. The law encourages the counties to first seek out the assistance of the Association of Counties in this endeavor, and that is surely appropriate. That should not, however, discourage your help, nor should it discourage you from offering to help. What is ultimately decided by the counties will definitely affect you and your practice of law.

House Bill 1060 requires that multicounty agreements be executed before Sunday, February 7th, 1982. This date leaves less than eight months in which to accomplish these agreements. Much thought and negotiation regarding the geographical boundaries, judicial services, and cost sharing must be undertaken. It is a complex process, and one which should be initiated soon.

Certain items should be considered in drawing these multicounty agreements.

(1) Indigent defense services will be administered in each judicial district through the presiding judge after July 1, 1981. The payment process for lawyers acting as counsel for indigent defendants will be expedited and strengthened if each multicounty agreement is located fully within one of the existing seven judicial districts.

(2) Assignment of cases by the presiding judge to county judges will also be facilitated by the location of each multicounty agreement within the boundaries of a single judicial district.

(3) Felony case processing between county courts and district courts will be facilitated by locating these agreements within established judicial districts.

A second major preparatory step concerns judicial candidates for the office of county judge. The importance of qualified candidates for these important judgeships is obvious to us all. Under House Bill 1060, county judges must be law trained and full time, just as are the present county judges with increased jurisdiction. Generally speaking, their compensation will be more substantial. As for salaries, House Bill 1653 provides that the salary of a county judge shall be equal to a minimum of eighty-five percent of the salary paid to the district judge, which will be \$50,600 beginning July 1, 1982. The minimum annualized salary of the county judge on January 1, 1983, will be \$43,010. This salary may be increased by a county or counties by five percent to a maximum of ninety percent of the salary paid to the district judge on an annualized salary on January 1, 1983, or the sum of \$45,540. I hope you

will encourage the most qualified persons to seek these offices.

As previously indicated, the primary election for the new county judgeships is June 8, 1982. This date leaves ample, but not excessive, time to give consideration to such candidacies.

The third preparatory step involves efficient court services. The importance of local and district bar association consultation with the presiding judge during these next few months may be less clear to some in the area of efficient court services. However, this consultation is vitally important because of the broad flexibility provided by House Bill 1060 regarding the presiding judge's authority to assign civil and criminal cases to the county judge.

Section 18 of House Bill 1060 provides for county court jurisdiction in the following:

- (1) Civil cases with not more than \$10,000 in controversy;
- (2) Criminal misdemeanor, infraction, and noncriminal traffic cases;
- (3) Small claims cases;
- (4) Probate, guardianship, and other testamentary cases, including trusts and contested matters;
- (5) Preliminary hearings and arraignments in felony criminal cases;
- (6) Commitment proceedings pursuant to chapter 23-03.1.

Now subsection 7 is the most important section of all. It provides for county court jurisdiction in "any other case or cases except proceedings conducted pursuant to chapter 27-20, which is the Uniform Juvenile Court Act, as assigned by the presiding district judge of the judicial district in which the county is located; provided, however, that any party is entitled to have any matter assigned pursuant to this subsection heard by a district judge if a written request therefore is filed with the presiding district judge within three days after receiving notice of the assignment, and, provided further, that the trial of the criminal matter may not be assigned to a county judge who presided at the preliminary hearing except where a preliminary hearing has been waived."

This flexibility may be exercised differently in each judicial district. I encourage you to make your views known to the presiding judge. Your views will help assure effective services after January 1, 1983.

We are in the beginning phase of the transition process. We need your cooperation and initiative. The months will pass quickly, and we hope they will be fruitful in Bar-Bench cooperation and consultation. With minds working together, the new county court component of the North Dakota judicial system will meet our needs.

As I have mentioned before in these reports and in numerous private conversations with attorneys, it is our desire as a supreme court that this implementation process move forward deliberately and firmly, that it be an open process, open to consultation and ideas, and that the resulting structures and procedures be administratively flexible. We seek new county court services which will not only work, but work effectively and efficiently.

The second major part of House Bill 1060 is the state funding of district court services previously funded by counties. There are six major elements of state funding which I want to mention today, and they are:

- (1) Defense counsel services for indigent defendants and juveniles;
- (2) Law libraries;
- (3) Juror costs;
- (4) Juvenile court personnel;
- (5) Court reporters;
- (6) District court operating expenses.

Major district court expenses remaining with the counties include court facilities and clerk of district court functions.

Together these six elements provide a unique opportunity for improving court services, equalizing the quality of court service across our state, and reducing the net costs of these services to the taxpayers.

Let me outline two examples for you today. Each of these examples offers the opportunity for lawyer input in the structuring and administration of court services. These examples are indigent defense services and law libraries.

As you know from the experiences in Adams County, the cost of indigent defense services can be unexpected and substantial in a single case. Many of you are familiar with delay in the payment of assigned counsel fees and variable policies in assessment of fees. We hope that these problems are in the past.

Prior to the development of House Bill 1060, a State Bar Association of North Dakota committee, chaired by Bruce Bohlman and with staff assistance from John Walstad, prepared a proposed rule for administering indigent defense services. It has been filed with our court and was referred to our Court Services Administration Committee for study and will be considered by our court following a hearing scheduled for the 23rd of June. Although our Court Services Administration Committee recommended major changes in the proposed rule, a special committee consisting of members of both groups has now agreed on a third version. That compromise version should help us put a rule into effect by July 1, 1981, which will provide a forum for the discussion of the complex issues relating to counsel for indigents.

We need a new framework within which to administer indigent defense services equitably and efficiently. Let me suggest some standards by which we can measure our performance:

- (1) The fee structure should be clear, current and equitable;
- (2) Review procedures, including an appeal procedure, should be primarily local, prompt, and equitable;
- (3) Payment to lawyers should be prompt; we should aim at a standard of approved claims within thirty days of submission by the attorney;
- (4) Our regulatory framework should be short and simple, and should provide clear accountability.

The early months of the first biennium require caution to assure the provision of services within the appropriation, and the cooperation of the Bar in this respect is particularly essential.

House Bill 1060 provides for support of local law libraries with state funds. On July 1 of 1981 the maintenance of county law library collections will become a state responsibility.

In anticipation of the passage of House Bill 1060, the State Court Administrator arranged for an inventory of county court library collections, which was completed during the summer of 1980 by Kim Foster. That study concluded that there is substantial variation among the collections. Some collections are substantial, others are not as adequate.

The next step should include consultation between presiding judges and local bar associations looking toward a coordinated plan to maintain libraries and improve inadequate ones. Your participation in this process is desirable.

Let me make an additional observation here. A single volume of the Northwest Reporter is presently in excess of \$25, and thirteen volumes of that Reporter series alone were published in the last twelve months. Economic necessity may encourage further cooperation in development of law library services in local areas. A strong core

library in each county could be of great importance to lawyers as library costs increase.

Indigent defense and local law libraries are only two of the services to which we have the opportunity to make major improvements through state funding with your cooperation. We look for your help in this process.

Now, if I may, I would like to offer several specific suggestions for steps which can be taken by this Association and each of the district bar associations which would make a substantial contribution to this important transition process.

First, to implement the legislation previously discussed, I invited the President and the Board of Governors of this Association to establish an advisory committee of lawyers to meet periodically with the presiding judges to discuss statewide issues of mutual interest in this transition period. I am pleased to note that your President and President-Elect have jointly appointed such a committee. It consists of the presidents of the seven judicial district bar associations. I suggest an initial period of consultation between July 1, 1981, and June 30, 1983, after which period a mutual evaluation of this effort can be made.

Second, I invite the president of each district bar association to contact the presiding judge of the judicial district to offer the assistance and cooperation of the members of the local bar to the presiding judge and the Advisory Committee established in that judicial district during this crucial transition period. You could in this way be of great assistance to the presiding judge and the Advisory Committee in the development of policies and procedures.

And, third, I am personally committed to a smooth transition and particularly to anticipating problem areas and working cooperatively toward their solution. In addition to what I have just outlined, I invite your candid individual and personal comments, suggestions, and interests. My door is open, my telephone is listed, and I read my mail. I encourage your participation and wisdom channeled collectively in this process through your judicial district and the State Bar Association of North Dakota. But, if for any reason you wish to communicate with me personally on the subject, I look forward to hearing from you.

These are suggestions for your participation and assistance in the transition to the new county courts and the improvement of indigent defense and law library services within the state funding of previously county-funded district court services. They reflect our view that success in improving our system will come only if you, the working Bar, are informed of our efforts and participate in them.

To summarize, I endorse bottom-up administration from the judicial system. This is how our legal system functions best. I hope these comments have clarified the importance of our present opportunity. I hope that effective cooperation in the direction I have suggested can be strengthened.

I thank you again for this opportunity to share these views on our cooperative efforts and the progress we have made together to improve the functions of the courts of our state. With your support I know that we will be able to continue to improve our judicial system to the benefit of all of our people.

And I thank you very much.

(Applause.)

PRESIDENT JOHNSON: As the Chief Justice indicated, he does read his mail. And he also answers it. So if you have any correspondence, why he would be happy to receive it.

At this point we will continue with the scheduled committee reports. And I would suggest that those of the reporting bodies or persons who are less agile than the Chief Justice could go up on that end where there are steps.

But, first of all, I will ask for the committee report from the Continuing Legal Education Committee, Mr. Dan Vogel of Fargo.

MR. M. DANIEL VOGEL: First, I want to thank the other members who served on the committee with me this past year. They are Carol Kapsner of Bismarck, Bill Murray of Bismarck, John Olsrud of Bismarck, Ray Rund of Finley, Boyd Wright of Grand Forks, Linda Catalano of Bismarck, and Doug Christensen of Grand Forks. These individuals attended the meetings we had. They worked hard, and I think that they deserve your support. In particular, I would like to thank Jack McDonald, our CLE Director. Jack is an attorney here in Bismarck who works for the CLE program on a part-time basis. He is the person that puts together the seminars that are attended by the attorneys, and I think that he's done an excellent job for us during the time he's been associated with the program. In addition, a person that you may not be aware of is Jerry Smith. Jerry is the person who handles the mechanics for the UND Continuing Education Division. He, too, has done an outstanding job for the program during the time he's been associated with it.

I do want to encourage all attorneys to please fill out the evaluation forms; please continue sending us your comments and letters. In order for us to put together programming which is going to meet your needs and expectations, we've got to have your feedback. We also encourage you to contact individual committee members that you may know to give them your observations and criticisms of the programming.

In terms of our objectives for the coming year, I think we are going to continue to present a variety of CLE programming in different formats. Some of that programming will be for beginning practitioners, and some of it will be for advanced practitioners. We're also this year going to attempt to use the statewide telephone network, which is known as the ETN, on an experimental basis in hopes of being able to make CLE programming more accessible to people in more remote areas of the state. We are also going to experiment with public television facilities and with videotaping facilities. Our eventual hope is to have videotapes and audiotapes that would be available for individual attorneys to rent or to utilize in the event they are unable to attend programs personally.

We also hope to coordinate more CLE work through the University of North Dakota Law School. Seems to me, and I think it seems to the committee members, and also to Dean Warden of the Law School, that there should be a much closer connection between the Law School and the organized Bar than there's been in the past. And I think that a natural bridge for this type of connection would be the CLE program.

Otherwise, we do have some problems with the program. We have been experiencing some drop in attendance, which I think in part is due to the increasing competition which we are seeing in the Continuing Legal Education field from out-of-state programs. We do hope to continue to maintain the quality of our programs and to keep your interest. However, it has been a problem in terms of attorneys naturally wanting to attend programs in other areas, which perhaps present topics of interest which cannot be presented here. Another problem that we're currently dealing with is how to structure the CLE Director's position. I think our current thought is that we are eventually going to merge the CLE Director's position into the State Bar office.

That concludes my report. If you do have any questions, I'd be happy to answer any that you may now have, or in the alternative I will be here, and other committee members will be here, and we'd be glad to visit with you regarding any observations you may have concerning the CLE programming.

Are there any questions?
(Applause.)

PRESIDENT JOHNSON: Thank you very much, Dan.

I would remind you again that in your packets are written reports covering essentially all of the active committees of the Association, and if you have particular questions you can refer to those reports.

At this time I'll call upon the Chairman of our Fee Arbitration Committee. His report will be somewhat abbreviated since part of the program this afternoon will deal with the proposed plan for fee arbitration. Mr. Kermit Bye.

MR. KERMIT E. BYE: Thank you, Phil, fellow lawyers. The Fee Arbitration Committee is possibly not a standing committee in the traditional sense of one that's been organized and operating over the past several years, but was a rather recent addition to the list of committees who operate within the framework and structure of the Bar Association.

The Fee Arbitration Committee met on several occasions during the past year in an effort to come up with a plan that the Assembly might consider for adoption. And it will be on the agenda either this afternoon or at the business meeting tomorrow for final adoption. The plan is printed in the committee reports, and I won't bore you with going through it at this time step by step. But I do think that the action or affirmative action in adopting some plan would be a step in the right direction.

I was just reading the May 11 issue of U. S. News and World Report. Now you all know this is not your average consumer advocate magazine. But the lead story on the cover is "Why are lawyers in the doghouse?" And you go on to page 38, and if you're feeling particularly good about yourself attending this annual meeting and so forth and proud to be a lawyer, after you read this article you possibly will have some different thoughts. One of the significant items in this article is the fact that the latest ABC News Harris Survey, when asking people which institutions they have high confidence in in this country, out of thirteen categories that they had an opportunity to select from, lawyers ran dead last. And I'm talking about they were in competition with a pretty exclusive group of organizations such as labor unions and Congress of the United States. And so I think we have really a lot of catching up to do in our public relations.

In addition to being a public relations gimmick, I think this will also serve as a very useful tool in settling what many times becomes a very painful process, and that is of billing, agreeing upon, and, hopefully, finally collecting your fee. I will just very briefly say that it is not the intent of this Committee to make this a part of the court rules process. This is a voluntary mechanism that would only be put into effect if agreed upon between the attorney and his client. And it would be then, once agreed upon, of course, the decision of the Arbitration Board would be binding upon them when it comes to the matter of the fee.

I would like to thank the committee members who served on this Committee: Shelley Lashkowitz, Wayne Anderson, Christine Hogan, and Bob Bolinske, and also in addition thereto, to give special thanks to Paul and Joel and to Phil, and also to Ted Kessel, Jr., who was the supervising member of the Board of Governors, in putting together this proposed plan. I hope that you look it over. I'll go through it in slightly more detail when we present it for final consideration, and hopefully we can come up with a plan that will serve our needs.

Thank you.
(Applause.)

PRESIDENT JOHNSON: Mr. Paul Pancratz, as I understand it, will present the report of the Group Insurance Committee.

MR. PAUL K. PANCRAZ: I'm making this report on behalf of the Committee Chairman Lee Hagen of West Fargo who could not be here today. He specifically asked me to recognize and thank the members of the committee who met a number of times in the past year: Randy Lee, Bill Brudvig, Dave Vaaler, William Gray. And also a vote of thanks to Joel Gilbertson who did an enormous amount of work in correlating the material that we considered.

In 1957 the State Bar Association contracted with Union Central Life Insurance Company for the present existing group life insurance coverage. Principally because of the rate structure, the plan has attracted virtually no new members for many years. Now twenty-four years later, we have a dormant group of about 120 lawyers of the older gray eagle type who don't dare drop their insurance, and we have had nothing attractive to offer younger lawyers. Well, all that is changed because the Professional Liability and Insurance Committee has come up with a plan which should be attractive to lawyers of all ages, and which should develop a viable group within the State Bar Association. The features of the plan, the most important features, stipulated by the Committee, were these four:

First, all current insureds, the old gray eagle type, must be accepted in the plan, and they must have the option of maintaining the level of benefits provided by the present plan at a premium not in excess of their current premium;

Secondly, maximum benefits would not be lower than \$150,000, and at least \$30,000 of coverage would be guaranteed to all participants;

Third, a waiver of premium provision would be included;

And, fourth, an open enrollment period of sixty days was required pursuant to which any active practitioner under age sixty-five could purchase up to \$30,000 of coverage without medical screening.

Now nine separate plans were submitted to the Committee, all of which were reviewed and analyzed. The Committee concluded that the best plan for the Association was the bid submitted by Prudential Insurance Company of America. So the Committee recommended to the Board that the Prudential plan be sponsored and that it be made available to all members of the Association who qualify.

Prudential representatives are here at our annual meeting and are anxious to provide you with all the details and answer your questions. They have a table out in the outer room. The Committee feels certain that all present insureds will want to continue to carry their coverage with Prudential, and will either contact the Prudential representatives here or respond to their mailers. More important, however, are the younger members of the Bar who within the next sixty days really have a great opportunity to obtain group term life insurance at the lowest possible premium rates.

One additional accomplishment of the Committee was due to the efforts of committee member Bill Brudvig, who during the past year has spent a considerable amount of time gathering information on the availability of

lawyers' professional liability insurance coverage in North Dakota. Attached to the printed report in your material is a summary of the types of coverage now available to North Dakota lawyers, and you are encouraged to study this material. The Committee has concluded that the cosponsorship of two plans offered by Harold Diers & Company should be continued.

Now in a moment Bob Diers of Harold Diers & Company will say a few words about the legal malpractice coverage available. But first I want to introduce Jim Miller, an associate group manager of the Prudential Insurance Company of America, who will add some details about the new group life insurance plan. Jim Miller.

MR. JAMES MILLER: Thank you, Paul. You have pretty much taken my speech, so I'm going to be fairly brief here.

I would like to introduce a couple individuals that are also from Prudential that will be in attendance during the conference and maybe they can stand up, Mr. Harry Guttromson, who I think many of you may know, and Mrs. Alma Lokken. Both are Prudential agents here in North Dakota.

Paul has alluded to the fact, and I am sure many of you are aware, of the life insurance program available, the group term life insurance program, and possibly some of you were not. Group term life insurance via the collective buying power of the group can charge significantly less rates than you would be able to purchase on an individual policy. Now this is term insurance. There is no cash value buildup in it, so it is strictly term insurance. And, again, it can be purchased at significantly lower rates than you could get on an individual policy.

Again Paul has stated the process that led to Prudential being awarded the bid. We submitted bids with a number of other companies, and we were chosen as the carrier.

Aside from the plan benefit improvements that were made, I believe we did significantly reduce the premiums that were currently existing under the program. Just for an example, for any of you, for any individuals for one thing, the premiums are separated according to age. And just to give you an example, for any individual who is less than thirty, under the old Union Central Plan the monthly equivalent rate was thirty-one cents per thousand. That's what was being charged. Under the Prudential plan the monthly equivalent rate will be thirteen cents per petitioner thousand. So it's almost one-third, at least in that age category.

One of the differences under the Union Central Program, premiums were being billed on a quarterly basis. This will be changed effective August 15, and we will be billing on a semiannual basis, two times a year. We will send you a coupon directly to your home address which you can then remit back to Prudential with your payment.

We've been doing — we've been involved in the insurance business for some time. I'm sure many of you, all of you hopefully, have heard of Prudential. Currently, at the end of last year our life insurance volume was in excess of four-hundred-six billion dollars in volume. And we have approximately sixty billion dollars in assets, so we're going to be around for awhile.

Just real briefly touching upon the plan that is being offered and that has been improved upon, you will be able to, as a member of the Association, select up to \$150,000. I should mention that the rate for the spouse is also age rated; for the children it is not. You will have \$5,000 of coverage for each child, and you will pay \$4.80 every six months. Doesn't matter if you have one child or ten children, that rate of \$4.80 will apply, and you will have \$5,000 coverage on each of your children.

What I am going to mention now is very important, and again Paul alluded to it. We are holding open enrollment in effect, I guess, starting today until August 15, which will be the new effective date of the Prudential policy. During that time you can enroll for up to \$30,000 nonmedically. You can also enroll your spouse and children nonmedically up to that date. And again which just means there is no — no health questions that will be asked. Any amounts in excess of that \$30,000, on the brochure that we have out at our table, and which you will be able to get some copies of, any amounts in excess of that will be subject to a health questionnaire. Now this is not a physical exam; it's a questionnaire which will be sent in to Prudential. Our underwriters will take a look at it and let you know if we'd like some further medical evidence taken. So, again, the \$30,000 right now until August 15 is not medical. If you don't sign up prior to that date, any insurance that you would sign up for after that date would be subject to this health questionnaire.

There are a few stipulations, that I won't go into at this time, for individuals over age 65. Again, as Paul mentioned, we'll be out in the registration area. There will be someone there during the entire conference, if you have a chance to stop by and talk to us. Also, by the time you get home you'll probably have one of these at your home address. We've sent out a mailing along with a letter from Joel announcing the program in some more detail. The actual enrollment process is very easy. There is a self-addressed envelope here that can be sent directly in to Prudential with the various amounts on the form, that you can simply put an "X" in as to whether you want to enroll. If, indeed, you want to enroll, and you've decided now you want to, it might be a good idea to stop and see us and I will be able to just take those back with me to Minneapolis. We don't need any premium money at this time. We'll take the application and towards the middle or end of August you will receive the semiannual coupon.

I think that's it. Again, we'll be out there for the entire convention. And Harry, Alma, and I look forward to meeting many of you.

(Applause.)

MR. PANCRATZ: And now a few words from an old friend of the Association who many of you have met and know, Bob Diers.

MR. ROBERT DIERS: Good morning. My report will be somewhat shorter. In the last year we've had a great deal of activity in North Dakota concerning lawyers' professional liability coverage. Quite frankly, it's narrowed down to three areas of consideration on most lawyers' part. Number one would be how the deductible is applied if there is one; number two, what are the aggregate limits; and number three, what is happening to title and abstracting? So very quickly let me go through this.

As far as rating structure goes, the two sponsored programs, depending on whether you are over a million dollars aggregate for the entire limit or whether you are below, are offering coverages anywhere from twenty to forty percent lower ratewise than any other competitive programs in North Dakota. Now there are two very specific reasons for this. Number one is in the title and abstracting area, and the second concerns employees, clerks. Now I'm not talking about paralegals, investigators, or anything like that. Most companies will charge you extra for the number of employees that you have at a typewriter; they will charge you extra for title and abstracting work. In the last year both our companies have taken out any consideration for additional premium for title and abstracting, and the Guarantee Insurance Company has lowered their premium in the personal injury area so that it amounts to — on a total premium their premium is lowered ten percent across the board. We all like

numbers. And these are very easy, and you don't need to write 'em down. Just to give you an idea how competitive the plans are, in the area of using a \$100,000/\$300,000. Now our average limit up here in North Dakota is over \$500,000, but we will use a \$100,000/\$300,000 because that's where the book starts, for one man, a one-man office, one girl, full prior acts coverage. This means we are going back and covering anything that happened prior to the time that you would have any other collectable insurance. The sponsored program is \$290. This is a no deductible program, \$290. The next competitive program in the state, their premium for the same program would be in this area \$386, \$290-\$386.

Now, let's get into the area where the majority of our business is. And that's two men to fifteen men. We are using four men, full prior acts coverage; we are using four girls. Now this may not be right. We found the more title and abstracting work, the more personnel are in the office. Total firm coverage with a sponsored program, \$1,116; with the next competitive carrier, \$1,511. Now this is no title, no abstract. Should you have some more people like that in there, there are some additional charges on other firms.

I will be out here during the entire convention. Be more than happy to visit with any of you about this. We feel now, except for an area where you have a personal friend or someone you play golf with or some local insurance man that brings your firm a great deal of business and you feel you can't move your business, and this does happen, we feel we have the most competitive malpractice program for you. Please come by and talk.

Thank you very much.

(Applause.)

PRESIDENT JOHNSON: Thank you very much for that very fine report.

Dave Bossart, I understand you will present the Information and Service Committee report. You better take the stairs, Dave.

MR. DAVID BOSSART: Yes. I got hit by a 9 iron yesterday.

I stand instead of Richard Gross in giving this report.

I should say that those insurance rates sound so reasonable maybe our Committee should have that kind of insurance.

Serving on this Committee is Harold Anderson, myself, Bob Feder, Mike McIntee, Illona Jeffcoat-Sacco, and Dick Gross. And Dick asked me to thank the members of the Committee for their involvement and participation during the last year.

I am not going to go through what all the Committee did. It's in your material in the packet. I'll just tell you the areas, because every once in awhile somebody says, "What does the Information and Service Committee do?" I'll tell you. We get involved in constitutional awards. Read about that in the packet. The Liberty Bell Award you know about. Read about that. Institutional advertising mainly. That was our main event this last year. And Law Day.

I just want to talk a little bit about institutional advertising since that was our primary responsibility. In fulfilling that responsibility our Committee met five times on that subject. And initially we met and dealt primarily with evaluating the Minnesota program as they have it. And we visited with a representative from the Minnesota group, and he enlightened us to a great extent. The Committee determined that in order to properly evaluate whether or not we should start an institutional advertising program in North Dakota, that a pre- and a post-measurement of public perception of lawyers in North Dakota would be necessary. As Kermit Bye pointed out to you, sometimes our image isn't what we think it is, or it's maybe even worse. Without a pre- and a post-evaluation we thought that there would be no way of gauging the effectiveness of whatever program would be that we'd place into effect.

The bad news is that putting into play one of these evaluations costs lots of money. We obtained bids ranging from \$4,000 to \$19,000 for a pre- and a post-survey. Obviously, that's a significant deterrent to establishing an institutional advertising program here. We also learned that prior pre-post surveys conducted by other Bar Associations, which had initiated institutional advertising campaigns, really demonstrated very little alteration in public perception in lawyers as a result of those institutional programs.

We did receive samples of institutional ads which have been produced by the American Bar Association, the Ohio Bar Association, and the Minnesota Bar Association. I might just take a minute. These are little thirty-second or sixty-second spot ads, and some of them are done very well; others I think are just ludicrous. They have one especially that I remember that showed this rat in a maze. And this little rat was going through this maze, and it wasn't a well-trained rat. It wasn't one of Pavlov's type rats. But he kept running into the wall and couldn't find the proper gate and so forth. And then this voice came over saying, "Are you confused? Do you have trouble finding a lawyer when you need one? Do you know what your lawyer can do for you if you need one?" And here this poor little confused rat is. And we all looked at that, and everybody kind of looked at each other on the Committee. And I didn't know if anybody really thought that was a good one or not. Joel was there. And we kind of shrugged our shoulders and said, "I don't know. Rats and lawyers, somehow that can't be a good one." But there are some real good ads.

The Committee did select three of those films which we felt would be useful in advertising the Lawyer Referral Service. And the Committee has recommended that the Lawyer Referral Service contact media representatives in order to get a determination as to whether these films could qualify as public service announcements. Obviously, if they qualify as public service announcements we can get them on at no cost. Now they may come at strange times, like Johnny Carson, and just before the Star Spangled Banner in the morning. But nevertheless, obviously, with the cost of television services we could save some money doing that.

Just briefly regarding the lawyer referrals, I would like to say that that is off the ground now, and there's a special committee handling that. Most of you hopefully are signed up for that. I think it's really working well, as evidenced by the fact that simply by just using the yellow pages, no other type of advertising or announcements about the existence of that as far as the people in the state are concerned, calls have risen from 135 during the first month of operation in January of '81, and in March — I don't have the latest statistics — they were up to 197 calls per month. And there may be more information on that. But I think it really is working. And I would put a plug in for that because I think in relation to institutional advertising, there is no better thing that we can do for the people of this state to give them information on how to seek a lawyer and in that particular way. I think the method works good; it's fair, and it's a good thing.

If you do have any serious questions about the work of this Committee, I would encourage you to write Richard Gross at the Workmen's Compensation Bureau here in Bismarck.

Thank you.

(Applause.)

PRESIDENT JOHNSON: Thank you.

Moving right along, I will call upon Dave Bailly for a report with respect to Inquiry Committee-East.

MR. DAVID R. BAILLY: Thanks, President Phil, colleagues.

I'd like to start out by simply saying that the Inquiry Committee, I felt, had a very successful year. And unfortunately it's the type of activity that we don't like to be involved with to a great extent, but it's something that we feel, of course, has to be done. And I think we did an effective job this year.

I would like to interject one point. A growing concern of the Inquiry Committee is the number of complaints brought against attorneys regarding deception, possibly puffing done at the initial stage of client representation. There's an interesting joke that I saw this year involving the cartoon strip Wizard of Id. And there was a prisoner with handcuffs on and the executioner behind him, and he had a noose around his neck. And the King said, "Do you have any last words?" And the prisoner said, "My attorney said something about a loophole." And the King said, "You're wearing it." And I hope that that isn't happening with our Bar Association. And the Committee is doing a diligent job to see that it isn't.

I would like to personally thank R. John Fitzner, Vice-Chairperson of the Committee from Valley City, Alan Larivee from Grand Forks, Gary Lawrence from Northwood, Marian Stine from Fargo, Ted Kessel, Jr., from LaMoure, Rich Clapp from Grand Forks, and the Honorable Bernard Haugen from Wahpeton for serving on the Committee. And also our posthumous thanks to Joe Woell, who passed away, who was a very integral part of our Committee for a period of three years. Also I see Greg back there, former staff attorney for the Disciplinary Board, Greg Morris, who throughout my years on the Committee has done a fantastic job. And we certainly wish him well in his new job with the Insurance Office here in the state. And we also welcome Joseph Larson II, the new staff attorney of the Disciplinary Board. And in our initial work with Joe, we feel that he'll do an outstanding job for the Committee, for the citizens of the state, and for the Bar Association.

First of all, I'd like to very much welcome the fee arbitration system. I think this is going to substantially reduce the caseload of the Inquiry Committee because many of our disputes do focus around fee disagreements. And I think we are going to find, of course, that documentation of fee agreements by the attorneys with their clients is going to become more and more a way of life and a necessity. As I pointed out in my Committee report, the fee controversies and conflicts of interest were probably the major areas of our consideration this year.

We also received a much larger number of complaints which were obviously supported by attorneys, many times subsequent attorneys for a client. And this is something that we're finding more and more, a direct involvement by the attorneys in the implementation of a grievance complaint.

One very serious concern of the Committee is the increasing number of attorneys who are being convicted of felonies. And I think that's something that we certainly have to take a very, very close look at.

I'd leave you with four points. I have presented my report to President Phil. I think four short points: communicate, avoid conflicts in appearances or conflicts of interest, be diligent, and document everything. I think those four points.

Thank you.
(Applause.)

PRESIDENT JOHNSON: Thank you, David.

And battling clean-up today we have Mike Halpern from Glen Ullin. Mike knows what he's Chairman of.

MR. MICHAEL LADEN HALPERN: Right. Mike is Chairman of the Inquiry Committee-West.

I guess most of my thunder was stolen by the Chairman of the East.

I would like to thank those members of the West that served on the Committee during the past year. They were Donald Peterson of Minot, Rauleigh Robinson of Mandan, Ron Reichert of Dickinson, John Dwyer, John Olson, and Lee Fraase of Bismarck, Bob Holte of Stanley, and Al Wahl of Williston.

As indicated in the report that you have in your packet, there has been a substantial increase in the number of complaints filed. In 1979 on the calendar year basis there were a total of fifty-one complaints filed against members of the Bar Association. In 1980 that increased to eighty-five complaints, and in 1981 the total to date is twenty-seven, which if annualized comes pretty close to that eighty-five.

Based on the East, the same thing is occurring in the West. And I would like to add that there's probably another reason, and that is there has been an increase in the number of lawyers practicing law, therefore causing an increase in the number of complaints. I would echo and say I think the most important aspect for each member of the Bar is to talk to his or her client. When phone calls come into your office from a client, or a letter is written to you, please respond. Because that's caused, in my estimation, the biggest single problem, the failure to respond to phone calls or letters requesting, "What is the status of my file? What's happening?" And you just put it away and don't answer. And the net effect eventually is going to be a complaint.

Thank you very much.
(Applause.)

PRESIDENT JOHNSON: That completes the official committee reports this morning.

I will ask Joel Gilbertson to give us a report on memorials, those members of our Association that died this past year.

EXECUTIVE DIRECTOR GILBERTSON: Thank you, Phil. I might note that the State Bar office compiles and collects the memorials, the list of names and background information on the members of the North Dakota Bar who are deceased. And we get that through a news clipping service. If there are any names that I should read that I do not read, someone that we missed, please feel free to contact our office because it would just be something that the news clipping service would have missed.

The memorials have been filed with the State Bar office and will be reported verbatim in the transcript of the annual meeting. This morning I will read the names of the now deceased North Dakota lawyers over the past year.

BYRON L. EDWARDS
(1925-1980)

Grand Forks attorney Byron L. Edwards was born March 2, 1925, in Grand Forks. He was graduated from the University of North Dakota Law School in 1951 and married Gloria Pearson on August 15, 1953. Mr. Edwards was

associated with O'Grady and Edwards Law Firm until 1977 when he became Secretary and General Counsel of Northland Life Insurance Company in Grand Forks. He was Past-President of the Grand Forks County Bar Association.

Survivors include his wife; his mother, Mrs. Bertha Edwards, Grand Forks; two sons, Greg Edwards, Fargo, Gary Edwards, Grand Forks; four daughters, Mrs. Linda Dilley, Grand Forks, Mrs. Kathy Peterson, Farmington, Minnesota, Cynthia Edwards, Grand Forks, Laura Edwards, Fargo; and four grandchildren.

Mr. Edwards died on October 10, 1980, at a Rochester, Minnesota hospital.

JUDGE HALVOR L. HALVORSON, JR.

(1916-1981)

Ward County Judge Halvor L. Halvorson, Jr. was born August 19, 1916. He was a second generation of Halvorson attorneys in Minot, following in the footsteps of his father, Halvor L. Halvorson, Sr. He graduated from Minot High School in 1934 and from the University of North Dakota Law School in 1941. He served with the Navy in the Southwest Pacific from 1941-1945. He returned to Minot to begin his legal career following discharge.

Judge Halvorson served as Ward County State's Attorney until his appointment as County Judge in 1955. He had held the post since 1955 and was last reelected in the fall of 1978.

On September 2, 1942, he married Irene Johnson at Minot. Mrs. Halvorson died in June 1980.

Judge Halvorson is survived by two sons, Richard Halvorson, an attorney in Minot, and James Halvorson of Dunseith; three daughters, Mrs. Judy Lopez, Normal, Illinois, Mrs. Constance Albertson, Clinton, Illinois, and Debby Halvorson, Minot; and five grandchildren.

JUDGE CLIFFORDE E. JANSONIUS

(1909-1980)

Judge Clifford Jansonius of Bismarck was born February 2, 1909, at Bowdon. He attended the University of North Dakota for a year, then attended the Gregg School of Court Reporters in Chicago. He studied law under his father and was admitted to the Bar in 1934. Judge Jansonius's father, Fred Jansonius, was District Judge for twenty-five years.

When he returned from the United States Navy in 1943, he started a law practice in Bismarck with Alvin C. Strutz. In 1951 he served in the legislature as a Representative.

Judge Jansonius assumed the District Court Bench of the Fourth District in 1963. He served as a district judge until his retirement in 1974, serving as a supreme court commissioner from 1974 until his death.

He married Gladys Fadness on October 8, 1931. The retired Judge is survived by his wife; two daughters, Mrs. Annette Langford, Wayzata, Minnesota, and Mrs. Carol Marino, Ann Arbor, Michigan; and six grandchildren.

Judge Jansonius died in Munich, Germany, October 26, 1980.

PATRICK P. MILLOY

(1909-1980)

Longtime Wahpeton attorney, Patrick P. Milloy, was born February 17, 1909, near Omamee, North Dakota. He received his law degree from the University of North Dakota in 1931. He practiced law in Townner before coming to Wahpeton in 1933, where he began practicing law with Vernon Johnson. He was a partner with the Wahpeton law firm of Johnson, Milloy, Johnson, and Stokes.

Mr. Milloy served as Richmond County State's Attorney from 1949 to 1955, and was President of the Third District Bar Association.

Survivors include his wife, Lucille, whom he married on June 15, 1936; two sons, John Milloy, Albuquerque, New Mexico, Paul Milloy, Brainerd, Minnesota; three daughters, Mary Lars, Seattle, Washington, Eileen Johnson, Savannah, Georgia, Ann Ruddy, Weiser, Idaho; and eight grandchildren.

Mr. Milloy died on December 27, 1980.

CHIEF JUSTICE JAMES MORRIS

(1893-1980)

James Morris, former Chief Justice of the North Dakota Supreme Court in Bismarck, was born in a sod house on his parents' homestead east of Carrington on January 2, 1893. He moved to Cincinnati, Ohio at age sixteen. He finished high school there and graduated from Cincinnati University Law School in 1916.

His legal career in North Dakota included practicing law and being State's Attorney at Carrington from 1917 to 1928, election as North Dakota Attorney General from 1928 to 1932, law practice in Jamestown from 1933 to 1934, and election to the supreme court in 1934. He served as Chief Justice of the North Dakota Supreme Court for thirty years, from 1935-1965. Starting in 1947 Judge Morris served as a member of a three-judge major war crimes tribunal at Nuremberg, Germany.

He is survived by his wife, Amelia, whom he married in 1975; one daughter, Mrs. Janette Reynolds, Fergus Falls, Minnesota; and three grandchildren.

Judge Morris died July 20, 1980, at the Missouri Slope Lutheran Home in Bismarck.

GILBERT SAXOWSKY

(1918-1980)

Dickinson businessman and State Bar member Gilbert Saxowsky was born April 18, 1918, at Hebron. He graduated from the University of North Dakota with degrees in business administration and law in 1942. In 1953 he purchased his family's automobile dealership, Sax Motor Company, from his father. He was a Past-President of the Automobile Dealers Association of North Dakota.

Mr. Saxowsky is survived by his wife, Eleanor, whom he married on November 16, 1942; two daughters, Randi Beaton, Rapid City, South Dakota, Pamela Kosteletzky, Dickinson; and five grandchildren.

RICHARD P. SCHWARTZ

(1927-1980)

Hebron native Richard P. Schwartz was born in that city on August 7, 1927. He graduated from Hebron High School and received his law degree from the University of North Dakota. He practiced law in Hebron, Richardson, and Garrison before joining the Corps of Engineers at Riverdale. At the time of his death he was Chief of Land Acquisition of the National Park Service, living in Cherry Hill, New Jersey.

He is survived by his wife, Arlene, whom he married in 1954, and two children, Bryan and Jolene, both at home.

Mr. Schwartz died on July 17, 1980, in Cherry Hill, New Jersey.

JOHN A. STORMON
(1890-1981)

John A. Stormon was born October 13, 1890, in Devils Lake. He lived there until 1914 when he moved to Dunseith. In 1917 he moved to Rolla. He married Eva Rosscup on October 18, 1917. Mr. Stormon had practiced law in Rolla since June 1917.

Mr. Stormon was active in the operation of the International Peace Garden for more than forty years. In 1974 the Province of Manitoba presented him with its Order of the Buffalo Medal. He served two terms in the legislature with Rolette County, and also held the post of State's Attorney.

Survivors are a son, Jay Howard Stormon of Rolla; three granddaughters and three grandsons. Also surviving are three great-grandchildren.

Mr. Stormon died May 3, 1981, at Trinity Hospital in Minot.

JUDGE CHARLES J. VOGEL
(1898-1980)

Charles J. Vogel, a veteran federal judge from Fargo, had a professional career covering nearly sixty years of work as a practicing lawyer and as both a trial and appellate federal judge. He was born in Star Lake Township, Otter Tail County, Minnesota, on September 20, 1898. He moved to Perham, Minnesota at an early age and was graduated from high school there. He attended Huron College in 1917, leaving to enlist in the United States Army. After the war he entered the University of Minnesota where he received his law degree in 1923. He was admitted to the North Dakota Bar in 1924 and practiced law for several years in Minot. He subsequently moved to Fargo and joined the law firm of Richardson, Thorp, and Wattam. In 1940 he ran for the United States Senate as a Democratic candidate against William Langer and William Lempke.

President Franklin D. Roosevelt appointed him to the United States District Court for North Dakota in 1941. In 1954 Judge Vogel became the first North Dakotan ever to serve on the United States Court of Appeals for the Eighth Circuit. He was the first person in the country who had ever been named to two posts in the federal judiciary by United States Presidents of different political parties. In 1965 Judge Vogel was named as Chief Judge of the Eighth Circuit and continued in that position until becoming a Senior Judge in 1968. He continued to hear cases as a Senior Judge until his death.

He is survived by his sister, Mrs. Tena Hagenbaugh of Los Angeles; his brother, Mart R. Vogel, who practices law in Fargo; his son John Vogel, who practices law in Scottsdale, Arizona; and by his daughter Janet Pearson, who is a social worker in Tucson, Arizona. He is also survived by numerous grandchildren and great-grandchildren.

Judge Vogel died on September 8, 1980, at the age of 81.

JOSEPH H. WOELL
(1919-1981)

Casselton lawyer Joseph H. Woell was born May 18, 1919, near Casselton. He graduated from Casselton High School in 1938 and from the University of North Dakota Law School in 1945. From 1945 to 1947 he practiced law with Day, Lundberg, and Stokes in Grand Forks. In 1947 he and his brother Frank opened the Woell and Woell law firm in Casselton. He was a member of the Woell and Burgum law firm at the time of his death.

Surviving are his wife, Lillian, whom he married on June 27, 1964; two stepsons, Steven Alm of Fargo, and Bradley Alm of Casselton; two stepdaughters, Mrs. Nancy Stompro of Underwood, and Mrs. Rebecca Goetz of Bismarck; his sister, Mrs. Audrey Parnell of Ormond Beach, Florida; two brothers, Frank Woell and John Woell, both of Casselton; and six grandchildren.

Mr. Woell died on May 2, 1981.

I think we should at this point stand and have a moment of silence in respect for the memory of these deceased members of the North Dakota Bar.

Thank you.

As long as I have the podium, there are a couple announcements I should probably make that, when I was covering the meetings, I neglected. First one is please announce that the attorneys should check the message board for important messages.

MR. DAHL: Where is that?

EXECUTIVE DIRECTOR GILBERTSON: Where is the message board? The message board is out by the registration desk. Okay? There are some up there that are apparently being neglected.

Secondly, I wanted to mention that we are doing, I guess, some sort of — trying something new that we expect to do a lot more of in the future, but it's an experiment of sorts. We are going to videotape the presentation tomorrow, the three-hour presentation, on corporate farming. So that will presumably be available later for viewing by local Bar Associations or attorneys. We are going to audiotape tomorrow the two presentations in the area of mineral law; one presentation's by Steven Harris and Russ Mather and the other presentation's by Marvin Kaiser of Williston.

Then I want to mention some of our events we have coming up. Governor Al Olson will be the speaker at the noon luncheon. We will also be giving out sports awards. And I guess my feeling was that anybody that managed to make it through one of the sporting events yesterday should get an award, but that won't happen. We'll give out quite a few though.

I also want to mention tonight at the Junefest & Bierstube the initial entertainment will be by a couple of old pros. Now these boys are not in the business just yesterday. Someone told me that they have over 140 years of experience between them. Lou Welk and Mel Reis will be playing the accordion. We'll have some beer steins that I think will be a popular item for sale and free beer that goes with the annual meeting beer stein. Finally, the Conrad Ziegler Band will be performing and, despite what you may have heard, the yodeler will be there. We paid extra for the yodeler. But Al Wolf, chairman of the events, who, by the way, said he will be wearing his liederhausen tomorrow night, said, "Hang the expense. We want the yodeler." So the yodeler will be there. That's tonight, rather, at the Junefest & Bierstube.

Thank you.

PRESIDENT JOHNSON: Thank you very much, Joel. We are holding pretty well to our schedule. I want to thank the members for keeping their reports abbreviated as necessary.

At this time I will call on our Secretary-Treasurer, Chris Hogan, to report any necessary resolutions filed or requiring action at our meeting tomorrow. Chris.

MS. CHRISTINE HOGAN: Thank you, Phil. The only resolution which has been pre-filed with the Secretary is a resolution to amend the constitution of the State Bar Association to delete the ABA Delegate as an *ex officio* member of the Board of Governors of the Bar Association. Under the Constitution, article 10, notice of this amendment is hereby given, and the amendment will be acted upon at the next regularly scheduled annual meeting of the Bar Association in June of 1982.

PRESIDENT JOHNSON: Thank you very much, Chris.

Previous to our recess I will report initially a message received this morning.

"Please convey my best wishes to your membership as you gather for your meeting. I wish you every success in your deliberations. Warm regards to all. Quentin N. Burdick, United States Senate."

Also, just previous to our recess I would encourage you again to note the meeting places of the sectional meetings. There should be a temporary chairman available at the organizational meetings. Basically there should be available also a suggested set of bylaws that Dick Olson of Minot's committee has worked on in connection with the section organization. And basically the meetings would be available simply to adopt proposed bylaws, elect officers, and then submit that to the Board of Governors for approval.

The Real Estate, Real Property, Probate and Trust Section meeting is scheduled for the Augsburg Room once again. You might write that down.

The organizational meeting for Taxation is scheduled for the Bowdon Room.

The organizational meeting for Corporation and Business Law is scheduled for the Cologne Room. For Family Law, Room 254.

I don't know if anybody has figured out the numbering system here for rooms, but somehow you'll find it. But these rooms, as I understand it, except for 254, are down in the other section.

EXECUTIVE DIRECTOR GILBERTSON: All of them are down there.

PRESIDENT JOHNSON: All of 'em are. But 254 is up on — isn't that the second floor?

EXECUTIVE DIRECTOR GILBERTSON: But of the old part.

PRESIDENT JOHNSON: But they are all in the other section. That is all the help I can offer you at this time. If there are — if there is no further business —

MR. DAHL: I'd like to make an announcement. I want to say that the resolution which has been proposed to remove the ABA Delegate as an *ex officio* member of the Board of Governors was actually proposed by me. It is not an effort to get me off the Board.

But at this time, since some people have evinced an interest in succeeding me, officially I want to announce that this is the last term that I am going to be a candidate as ABA Delegate. It expires a year from now. That's going to give all of you an opportunity to determine whether you would like to be the delegate from our State Bar Association. I might say that I always take my wife to these meetings. I think she probably keeps me a little straighter. But, seriously, going to Houston this year where the mid-winter meeting was held, five days in Houston, it cost me \$1,000 to get my wife and me down to Houston and it cost me \$1,000 for us to get out of Houston. And you're not reimbursed anywhere near that kind of money. So if you want to be the Bar Delegate you better have a source of funds.

PRESIDENT JOHNSON: Thank you.

If there are any other lawyers as competent and wealthy as Bob Dahl they should certainly consider the position.

If there's nothing further, I will declare the business meeting recessed until 1:30 Friday.

And please consider those section meetings.

And of course the luncheon will take place where, Joel?

EXECUTIVE DIRECTOR GILBERTSON: Next door.

PRESIDENT JOHNSON: Luncheon will be next door in the rooms just adjacent here.

Thank you very much.

(Applause.)

(Whereupon, the proceedings were recessed at 11:05 A.M.)

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(Whereupon, the proceedings were continued at 1:40 P.M. as follows:)

PRESIDENT JOHNSON: The business session will come to order shortly.

Initially, some announcements. James Vukelic, there's been urgent messages from the Sheriff. Wants to serve you with a warrant or some such thing. James Vukelic. If he would please call the Sheriff's office at Mott. Anybody that sees him, would they apprise him of that fact, that the Sheriff is very anxious to get ahold of him.

EXECUTIVE DIRECTOR GILBERTSON: I'd like to announce this afternoon, after the election, there will be some District Bar Association meetings for the purpose of electing an officer, namely the president.

And I just want to again announce, I announced a couple of them yesterday, but the South Central District will meet in the Dresden Room after the election of officers this afternoon. This is the Dresden Room. So just stick around if you're from the South Central District.

The Northwest District will meet in the courtyard after the election.

And the Northeast Central District will also meet in the courtyard, in a different part of the courtyard, presumably, but in the courtyard nonetheless.

Then those of you that are in those districts, if someone could notify the registration desk who the winners will be and then you might tell the winners that they have a meeting at nine o'clock tomorrow morning at Room 254, Board of Governors' meeting.

Thank you.

PRESIDENT JOHNSON: We will call the General Assembly to order. And our initial order of business this afternoon will be a report from the Continuing Legal Education Commission, Randy Lee reporting on behalf of the Chairman.

MR. RANDY LEE: This will be extremely brief. The commission, as you know, has not produced CLE programming, but rather only accredits and approves the programs that request approval and reviews requests by attorneys for credit for attending conferences and lectures. The report is a statistical one. During this year we have received 465 applications for approvals. We have approved all of those, save 16. For your interest, 51 of the 465 requests received were for programs to occur in North Dakota or for activities that were in North Dakota. So that means a great deal of North Dakota CLE for credit is being earned outside the state. I'll be happy to answer any questions that there might be about the Commission's work. I hesitate, however, to be too loud with that as I am its newest member and have only served about six or eight months on the body. But I will do what I can. Are there any?

Mr. President, that will be our report.

PRESIDENT JOHNSON: Thank you very much, Professor Lee.

Next, call upon Bruce Bohlman to present the special report on behalf of the Indigent Defense Project of the State Bar.

MR. JOHN WALSTAD: I'm not Bruce Bohlman. This is Bruce Bohlman. I'm John Walstad. I was the Staff Director for the Defense Delivery Project. And our report today will involve initially the findings that we made, and then Bruce will introduce to you, hopefully not for the first time, the rules proposed to the supreme court in our attempt to remedy what we see as problems in indigent defense.

Our project was funded by a grant from the Law Enforcement Assistance Administration. And this enabled us to conduct a lot of research and it paid my salary. I spent a lot of time traveling the state, and I spoke to a lot of people here, and a lot of people also who are not here, about indigent defense court-appointed counsel matters in their county, jurisdiction, or area. We also sent out a survey instrument to about 1,000 attorneys in the state, and we had a real good rate of response on those. The surveys pointed out problems that I discovered in talking with people around the state. Not surprisingly, a major complaint of the attorneys was that they were not being paid enough for their efforts on behalf of indigents. A complaint of judges was that they were being hassled by attorneys who felt they should be paid more. And the ultimate responsibility, we felt, for our project was to assure that the system provides for as little conflict as possible between judge and attorney in order that the client receives the best service possible.

In the survey that we sent to attorneys, one area that continually cropped up was judges cutting the attorneys' fees submitted. Over half of the attorneys responding indicated that they had had fees cut by the judge that they had submitted to in indigent defense cases. And the problem seems to be in particular jurisdictions. And I've talked to some of you in the last couple days, and apparently there's some real vocal opposition to procedures in certain counties. Seventeen percent of the attorneys who indicated that they had had their fees cut indicated that that happened to them in over half of the cases in which they served. And it doesn't take too active an imagination to see that the attorneys get a little upset with that. And it ultimately harms the client in that the attorney's efforts may not be as zealous as they ought to be.

Our survey covered a wide range of areas. And I don't intend to stand here and throw percentages and such at you. Perhaps the simplest means of giving you an idea of the things that we drew on in preparing our rules draft is to give you a rundown of the conclusions which we made as an advisory committee.

The cost of legal defense in North Dakota has been increasing rapidly in recent years. In fiscal year 1980 the counties of the state spent about \$465,000 for attorneys' fees. That figure has been increasing from our figures at about fifteen to twenty percent each year. Now this was prior to the increase to fifty dollars an hour. So it's anticipated that there will be an even larger jump in that percentage increase for fiscal year '81, and certainly for fiscal year '82. However, North Dakota's expenditures for counsel fees are relatively low compared to other states, both in terms of total cost, mainly because the case load is low compared to other states, and in per capita cost, that is cost per taxpayer. It is also low on a per case basis. So the criticism that attorneys are padding their bills does not seem to be a valid one. There's a nationwide average of about \$370 per appointed case. North Dakota's average is about \$290, so approximately fifteen to twenty percent below other states.

The recently passed County Courts Bill will do a lot to alleviate a pressure that the counties were really struggling under. District court expenses for appointments were very high. And there was always the potential of an Adams County type experience where the county could be actually faced with bankruptcy or having to put in a new 3 mill levy and borrow the money from the Bank of North Dakota.

Presently, there's a significant lack of information about indigent legal defense cost and case load. Our project was the first time that costs for the state had actually been determined. And projections had been made before which we found to be fairly accurate, but there was probably a ten to twenty percent error in those projections also. We found that counties with larger populations can accomplish savings through institution of defender systems, county or public defender systems. We found that district court cases are not as numerous as those in county court, but are much more costly in total cost to the county. And they are the cases that are potentially the most expensive in any one instance, for example, the prosecution of a homicide. We also found that strict rotation of assignments is not followed in the jurisdictions of the state. And this is another thing that many attorneys have complained about, some saying that they are appointed too often, some saying that they are not appointed often enough. A few counties in the state do not have a sufficient number of attorneys willing to serve as appointed counsel. It's a real headache for the judges in those counties because every time an appointed case comes along they have to spend several hours on the phone trying to track down someone from a neighboring county willing to accept the case. We find that there's very little difference perceived, both among judges and attorneys, in the

performance of retained or assigned counsel. Initially the complaint heard was that assigned counsel either spent too much time on a case or spent not enough time. The survey of judges and attorneys both indicated that very little difference is perceived between the performance on the basis of who's paying the fee.

Support services, such as investigators and expert witnesses, are rarely used. And there appears to be a great deal of confusion both on the Bar and the Bench about the availability of such services.

North Dakota courts spend a significant amount of their time, judges, and staff in administrating assigned counsel systems. And it seems to be particularly bad in the small counties where the judge has to track down someone. Most North Dakota judges and attorneys favor a local option in selecting the type of defense system to be utilized and, given the broad range of experience in the counties, this is understandable. A state program imposing on each jurisdiction a public defender system, or something of this sort, I think would be opposed by the majority of the Bar.

More than a quarter of judges and more than a third of attorneys expressed dissatisfaction with the appointed counsel system as it presently is. Eighty percent of the attorneys indicated that they would like to see state guidelines promulgated to govern indigent defense, appointment of counsel, determinations of indigency, and the like. There seems to be quite a variance from one county to another. And the result may be that an individual charged in one county may not receive appointment of counsel, and the same individual in another county may.

Surprisingly, perhaps, in view of some of the vocal discussion, most judges and attorneys would prefer that the trial court judge continue to make the appointments and approve the vouchers of counsel. A few vocal attorneys indicated that they were quite unhappy with the judge in their particular district. But I guess this is something that is really unavoidable. And most judges and attorneys recognize the fact that the trial court judge is really the only one in a position at present to assess the performance of counsel, determine whether he actually spent the time on the case that he said that he did.

The biggest complaint of the attorneys, once again, was fees. Hopefully, the recent increase in the hourly fee rate will do a lot to alleviate that. But there seems to be a growing dissatisfaction with judges in particular districts reducing fee vouchers. The attorney's complaint is that, "I submit an affidavit that, 'This is how much time I put in on the case,' and the judge cuts my hours. He is, in effect, saying that I have sworn a false affidavit." We're hopeful that the rules proposal, which Bruce is about to outline, will at least do something to alleviate some of those pressures in order that defendants are not the ones who suffer as a result of confusion in our justice system.

And with that I call on Bruce Bohlman.

MR. BRUCE E. BOHLMAN: Thank you, John.

Briefly, the rules that we are proposing for adoption by the supreme court are four in number, and they will establish the North Dakota Legal Counsel for Indigents Commission.

The Commission will consist of seven members, one of whom would be a judge, one of whom would be a representative of county government, three members would be appointed at large from the Bar Association, and two members would be appointed by the Attorney General. The seven-member Commission established would have certain powers, duties, and responsibilities. Included in the list of responsibilities would be the overseeing of the system, if you will, determining whether or not the counties, the districts, and so on are putting together plans for the defense of indigents that will comply with standards that will be developed by the Commission. The Commission's main function, then, is to develop standards that can be used statewide, standards that will provide uniformity in determining indigency, in determining the payment of the fee for assigned counsel, in determining certain standards for contract services if a jurisdiction should decide to go the contract route, or if they decide to use the public defender system, to provide guidelines for such a system.

The Commission will be a very important body. It will be the only body operating in this area administering a very significant portion basically of the budget under the County Courts Bill.

The rules that we have now represent really a compromise position between the Court Services Administration Committee and the Defense Delivery Project which was sponsored by the State Bar Association. The proposed rules in their compromised form, if you may, will be heard on Tuesday, the 23rd, in the supreme court. And if you are so inclined we would invite you to appear at that time and testify concerning defense of the indigent, whether it be any problems that you've had, whether it be any comments on the proposed rules, or whatever you may have to offer.

We do feel that these rules are satisfactory. We feel that they will go a long way toward alleviating some of the ills that John has pointed out in the lack of uniformity in determining indigency, payment of counsel fees, and so on. We would heartily recommend them for your consideration. And I realize you have not had a chance to read the four rules that have been developed, and that's largely because the final draft was developed yesterday. Chief Justice Erickstad has indicated that he wants a workable rule in place by the 1st of July, which doesn't leave a lot of time. And so necessarily what we have here is a four-rule system setting up the Commission, which, in essence, creates the Commission and gives it the broad rulemaking powers that I mentioned. And I think the future then will determine what specific rules the Commission will adopt. And there will be opportunity for everyone to provide input into this rulemaking process. But these four rules will establish the Commission and its constituency. And after that point we're hoping that we'll get a lot of suggestions, a lot of input, from the Bar in this most important area. And I think we all share certain concerns about it.

That's really all that we have, Phil. If there are any questions we can certainly answer questions.

There is a report that has been compiled. John was using the report in his presentation. It consists of the survey that he prepared and compiled and also many other, I think, very valuable pieces of information concerning defense of the indigent in North Dakota. If you are interested in obtaining a copy of this report, there are a limited number that are available at the State Bar office. So if you will write to Joel or call the office, I'm sure that you can probably pick up a copy. First come, first serve basis, I assume.

Thank you.

PRESIDENT JOHNSON: Bruce, John, we appreciate very much your efforts, and those other members of the Committee that worked on this particular project, which involved a substantial expenditure of time by all of these people, and hopefully will provide us with a definitive approach or guidelines for dealing with defense of the indigent in North Dakota.

I'd like at this time to call upon President-Elect Paul Kloster to present to you the proposed budget for the State Bar Association of North Dakota for the next fiscal year.

PRESIDENT—ELECT KLOSTER: Joel and I spent a couple of days and several hours reviewing the needs for the coming year. We considered carefully the costs of our various programs for the past year, extended those into the areas and to the extent that we felt activities would be ongoing for this year. After taking into account the fact that we do not have a bottomless pit of money in our Association, we have arrived at what we believe to be a fair and appropriate budget. Following the compilation that Joel and I made, it was submitted to our Budget Committee, which consists of myself, Phil, and the immediate Past-President, Judge Kerian. Consequently, you can be assured that it passed the cervic tongue test.

The budget this year has been posted on the bulletin board during the annual meeting, so I'm assuming that most of you have examined it. I'm not going to go over it item by item, but I'll explain the major portions. And perhaps the one that you're most interested in is that the proposed budget for the coming year is in the total amount of \$199,700. That represents a 5.4 percent increase over the past year's budget and is reasonably consistent with the increases that the Association has been experiencing in the past several years.

The major items of change in this budget include a substantial increase of about \$12,000 in the salary budget. The reason for that is that the staff members were in line and deserving of a raise, plus we have the need, as you're aware, to engage the services of a new director. And hopefully, we will employ someone in August so that the new Executive Director will have the opportunity to work with Joel for a month, or the better part of a month, whatever we can work out. We will have one month with a duplication of salary. Also we have a bit of a cushion, we hope, so that we will be able to meet the current salary demands for this kind of position.

Obviously, postage and supplies have increased.

We have increased significantly the CLE budget, which simply brings it in line with the costs which we're experiencing in this current year.

We have eliminated several committees; one was the Law School Liaison Committee. And the reason for the deletion from our budget is that Dean Warden has indicated that he would prefer to formulate and to operate his own committee in that area, and we felt that would be a very worthwhile committee. And it will take the place of our old committee, making it unnecessary that we continue a budget item for it.

Taxation has the indication of becoming a section, so a committee will be unnecessary for that function.

The Federal Practice Committee had been established while Judge Kerian was the President. That became so popular with the Eighth Circuit that it established similar committees in the different districts in states, and, as a result, we do not have a need for that committee either.

The annual meeting is not being budgeted this year because we feel that it will be self-sustaining.

We are adding two committees. One will be a Law Review Committee. Our Association funds the Law Review to a reasonable extent, and it's felt that we should have a closer relationship to encourage the operation of the Law Review and to aid the editorial staff and to improve communication between the Bar and the Law Review staff. And, finally, what I feel is an important item is a North Dakota Bar Foundation. We are creating a North Dakota Bar Foundation Committee. We hope that it will, during this coming year, be created and established. We hope that it will be successful. And, among other things, that Committee will be studying the various facets that might be undertaken by the foundation. Certainly an obvious area would be CLE. Those of you who heard Dan Vogel report are aware that consideration will be given, perhaps at the end of the coming year, to having the CLE program merged into the state office. We do have sufficient leeway so perhaps a director can be engaged for the last month or two of the term of Jack McDonald so that, again, the new individual can have the benefit of his experience. And he has done a great job and has a lot of knowledge in that field. Jack has indicated that this is the final year that he will care to be involved or have the time available to continue his efforts.

Joel I'm going to appoint as Chairman of the Bar Foundation Committee. He has over the years gotten a lot of information from attending ABA meetings and from meeting with executives from states which already have a foundation. Not the least in mind is the fact that since he has given me the misfortune of leaving while I'll be in office, I felt it was only fair that since he isn't going to get a salary he might as well work for nothing like some of these other chairmen. So he has consented to do that.

If there are other questions, basically the rest of the committees are going to function pretty much as in the past, and they are budgeted accordingly. If anyone has any questions, I will entertain them. If I can't answer them, I'm sure Joel can.

If not, Mr. President, I would move the adoption of the proposed budget for 1981-82.

PRESIDENT JOHNSON: Thank you very much, Paul, for that fine report.

You've heard the motion. Is there a second?

MR. MAURICE R. HUNKE: Maurice Hunke, Dickinson. Second.

PRESIDENT JOHNSON: Mr. Hunke. Thank you.

Any discussion or question? If not, all in favor of the motion signify by saying, "Aye." Opposed? Carried. (Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: Kermit, are you here somewhere? There you are. Would you care to move at this time the adoption of the Arbitration Committee Report?

MR. KERMIT E. BYE: Yes. As Chairman of the Committee on Fee Arbitration, I would move the adoption of the report as presented yesterday.

PRESIDENT JOHNSON: Is there a second to that motion?

MR. KENT A. HIGGINS: Second.

PRESIDENT JOHNSON: Thank you, Kent.

You've heard the motion; you heard the very extensive report with respect to this proposal. It's been previously adopted by the Board of Governors. Any other questions concerning or comments with respect to that report? If not, all in favor of the motion signify by saying, "Aye." Opposed? Carried.

(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: Professor Lee will make the report on behalf of the Resolutions Committee. I had

selected him for this position with the express request that these resolutions be sung rather than read, complete. However, he has not agreed at this point to that request. Is that correct?

PROFESSOR RANDY H. LEE: That is correct.

PRESIDENT JOHNSON: Randy Lee.

PROFESSOR LEE: Your Resolutions Committee to serve this 81st Annual Meeting was appointed yesterday morning at the first business session and consists of Herman Weiss of Jamestown, Vern Neff of Williston, and myself.

No resolutions have been filed with us by any member, and, as far as we understand, no one-year notice items, constitutional amendments, were filed last year for this year. There are no from the floor, therefore, resolutions.

The Committee has prepared three resolutions in its own work. And I present those now on its behalf.

For the first resolution:

Whereas, the Annual Meeting of the State Bar Association of North Dakota, as one of its principal functions, serves to update and inform the membership on issues and subject matters of concern and importance to the profession; and

Whereas, that function cannot be fulfilled without the careful and diligent preparation of their presentations by our speakers; and

Whereas, the presentations by our speakers at the 1981 Annual Meeting has been well delivered and received;

It is hereby resolved by the General Assembly of the State Bar Association of North Dakota that the gratitude of the Association and its members is extended to all those who performed as our speakers at this 1981 annual meeting, including Mark I. Harrison, Jerry Feist, Representative Pat Conmy, Senator Wayne Stenehjem, Dr. John G. Watkins, Ed Behrendt, Steven Harris, Russell Mather, Marvin L. Kaiser, Garry A. Pearson, G. Martin Johnson, Gregory C. Larson, and others.

And it is further resolved that the General Assembly of the State Bar Association of North Dakota expresses its special gratitude to Governor Allen I. Olson for being with us at our meeting and for speaking to us at the Annual Meeting luncheon.

Mr. President, I move that the rules be excepted and that the membership direct the Secretary to cast a unanimous ballot in favor of the resolution.

PRESIDENT JOHNSON: You've heard the motion. Is there a second to the motion?

MR. LAVERN C. NEFF: Second.

PRESIDENT JOHNSON: Any discussion? If not, all in favor? Opposed? Carried.

(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PROFESSOR LEE: For its second resolution, the Committee presents this:

Whereas, the Annual Meeting of the State Bar Association provides us all with our principal opportunity for discussion of our mutual professional concerns and a welcome place to greet old friends and make new ones; and

Whereas, an Annual Meeting in order to perform this function must operate smoothly and be organized and administered with great planning by a number of people; and

Whereas, the contribution of time and energy is significant and important to ensure the success of the annual meeting; and

Whereas, it is the unanimous judgment of all that the 1981 annual meeting is a great success on all counts;

It is hereby resolved by the General Assembly of the State Bar Association that the gratitude of the Association and its membership is extended to the Annual Meeting Committee and all those who worked for it and to the Burleigh County Bar for all of its support.

Mr. President, I move the exception of the rules and move further that the membership direct the Secretary to cast a unanimous ballot in favor of the resolution.

PRESIDENT JOHNSON: You have heard the motion. Is there a second to the motion?

MR. HERMAN WEISS: Second.

PRESIDENT JOHNSON: Any discussion? If not, all those in favor signify by saying, "Aye." Opposed? Carried.

(Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PROFESSOR LEE: The third resolution of the Committee requires a very minor introduction. Bob Rushing never became licensed to practice law in North Dakota and was, therefore, never a member of the State Bar Association of North Dakota. In turn, therefore, he is not included in the Association's Memorial Minutes recognizing the passing of our colleagues who have departed from us over the past year. The Resolutions Committee respectfully suggests that we recognize his passing in our official records by the adoption of the following resolution:

Whereas, Robert K. Rushing moved with his family to North Dakota in 1969, and here dedicated himself to the state of North Dakota in his work as the Dean and a member of the faculty of the Law School, and in his service to the State Bar Association of North Dakota as a member of its Executive Committee and Board of Governors for ten years; and

Whereas, Robert K. Rushing passed away in Grand Forks on November 23rd, 1980;

It is hereby resolved by the General Assembly of the State Bar Association of North Dakota that the Association mourns the passing of Bob Rushing and extends to his family its deepest respect and sympathy;

And it is further resolved that the Executive Director forward a copy of the foregoing resolution to Mrs. Sandra Rushing.

Mr. President, I move that the rules be excepted and that the membership direct the Secretary to cast a unanimous ballot in favor of the resolution.

PRESIDENT JOHNSON: You've heard the motion. Is there a second to the motion?

MR. RAYMOND R. RUND: Second.

PRESIDENT JOHNSON: Ray Rund. All in favor of the motion signify by saying, "Aye." Opposed? Carried. (Whereupon, the motion was presented by President Johnson and passed by the General Assembly.)

PRESIDENT JOHNSON: That is the end of the report, Mr. Chairman?

PROFESSOR LEE: That is.

PRESIDENT JOHNSON: Thank you. We've moved along at such an efficient fashion that we will now have a little additional time in our business portion to deal with the election process. The elections are scheduled for three o'clock on our formal agenda. And, at least as to any contested election, I would suggest that the vote be deferred until that time. However, in the interests of moving things along I will suggest that we take nominations and have nominating speeches at this point in the General Assembly, and as to any contested election, that would be deferred so that other interested members might be present at three o'clock. If there's not objection to this procedure, that is how we proceed at this point.

Before we proceed with nominations, is there any other old business or new business to be transacted before this Assembly? If not, I will suggest, I will not require, that nominating speeches be limited to three minutes and seconding speeches to two minutes. You are aware, of course, that the President-Elect of the Association automatically becomes President this evening. And the election will be for the position of Secretary-Treasurer of the Association and also for the position of President-Elect.

Those persons eligible to vote are those persons actually members of the Association who are, in fact, present at this General Assembly.

First of all, I will call for nominations for the office of Secretary-Treasurer of the State Bar Association.

MR. MICHAEL G. STURDEVANT: Mr. President, Mike Sturdevant from Minot. I rise to place the name of Robert Lamont of Minot in nomination to the office of Secretary-Treasurer of this Association. Prior to our game Wednesday night, Bob screwed his back up again taking infield practice, but showed his dedication to this Association by coming here anyway. Unfortunately, it got the best of him. He is now in St. Alexius Hospital in traction. Since he is not present here to appreciate any florid remarks I may make about him I won't bother to say anything else that's nice; I'll simply nominate him.

PRESIDENT JOHNSON: You've heard the nomination of Mr. Sturdevant, past Secretary-Treasurer of this August Association. Is there any seconding speech on behalf of Mr. Lamont, perhaps his physician or someone? Are there any further? If not, are there any further nominations for the office of Secretary-Treasurer? Are there any further nominations for the office of Secretary-Treasurer? Hearing no further nominations, is there a motion that nominations be closed and a unanimous ballot be cast for the nomination and election of Mr. Lamont?

MR. ORLIN W. BACKES: Orlin Backes. Minot. So move.

PRESIDENT JOHNSON: Is there a second to the motion?

MR. KENT A. HIGGINS: Mr. Chairman?

PRESIDENT JOHNSON: Yes.

MR. HIGGINS: Wasn't it previously stated that we were going to defer the elections until three o'clock?

PRESIDENT JOHNSON: My suggestion was the contested elections be deferred until three o'clock.

MR. HIGGINS: I have no reason to suspect that there might be any. But it dawns on me there is a possibility that someone might want to put their name in the nomination at three o'clock.

PRESIDENT JOHNSON: Well, your point is well taken. I guess it's — unless someone wishes to move that action on this particular motion be laid on the table until three o'clock, we will proceed.

MR. HIGGINS: Kent Higgins, Bismarck. I would so move to table until three o'clock.

PRESIDENT JOHNSON: Is there a second to Mr. Higgins' motion?

MR. THOMAS W. NIELSEN: Thomas W. Nielsen of LaMoure. I second the motion.

PRESIDENT JOHNSON: You've heard the motion. Is there any discussion on the motion to table? If not, all in favor of the motion to table until three o'clock signify by saying, "Aye." Opposed? Higgins, you are a problem, you know that?

MR. HIGGINS: I will repeat the comment that I have made at least in private on three previous adventures.

MR. LEROY LODER: Mr. Chairman, I rise for a point of order. Leroy Loder from Minot. You can't debate this motion.

MR. HIGGINS: Point is well taken.

PRESIDENT JOHNSON: All right. We'll have to have a division of the House because the Chair is uncertain. Not in favor of the motion to table until three o'clock — what do you people — how can I figure out you people in the back? You're all standing. I will ask — first of all, I may proceed, since I have all these election difficulties already, I will proceed with the nomination of two election proctors. And I will, in view of his judicial functions and demeanor, I will ask Judge Bakken of Grand Forks to serve as one election proctor, and, in view of his demeanor at the lounge show last night, I will ask Norlyn Schulz to serve as the other one. And if you would each take half of the room. Why are you guys all standing in the back? I will ask those that are in favor of the motion to table to stand,

please, and be counted. Judge Bakken, would you count that half and Norlyn the other half? Where is Schulz? Judge Bakken?

JUDGE A. C. BAKKEN: I don't know. I just counted this side. But it's difficult with those standing in the back unless you had them all come to the front and be seated and then stand.

PRESIDENT JOHNSON: What happened to my other election proctor?

MR. DAVID L. PETERSON: He went to the bar.

PRESIDENT—ELECT KLOSTER: Looking for that girl.

JUDGE BAKKEN: Shall I try and count them on that side?

PRESIDENT JOHNSON: Is there no one else of good repute that I can find to count votes here? You're a little chaotic there. You may have to obey the Judge's order and be seated. You're going to be counted as voting in favor if you're standing in the back. Let's see. Who else is here? Vern, would you count that other side, please?

MR. LAVERN C. NEFF: Have you finished your count, Judge?

JUDGE BAKKEN: Yes.

PRESIDENT JOHNSON: You can sit down on this side.

MR. NEFF: Will everybody standing in the back of the room on this half that's in favor of the motion raise their hands so we can count you?

PRESIDENT JOHNSON: What do you have?

JUDGE BAKKEN: My count is forty-four.

PRESIDENT JOHNSON: Okay. What did you have?

MR. NEFF: Thirty-four.

PRESIDENT JOHNSON: Those opposed. Vern Neff?

MR. NEFF: Got thirty-four. Bakken's gotta break it now.

PRESIDENT JOHNSON: What do you have?

JUDGE BAKKEN: I got twenty-nine.

PRESIDENT JOHNSON: The motion passes by a vote of seventy-seven to sixty-three. Bitter contest. Very well. We will now proceed with nominations for the office of President-Elect. Are there any nominations for the office of President-Elect of the State Bar Association of North Dakota?

MR. KERMIT E. BYE: Thank you. Thank you very much, Mr. President. I take it that —

UNIDENTIFIED ATTORNEY: Saved by the bell.

PROFESSOR RANDY LEE: Wrong number, Mr. President.

MR. BYE: Mr. President, I would be given to understand that Kent Higgins possibly wasn't your campaign manager when you ran for the supreme court, am I right?

Inasmuch as we've been limited to three minutes to give nominating speeches for the office of President-Elect, I'll dispense with the speech that Burt Wheeler prepared for me to read and I will go forward with my own notes.

I am pleased to place in nomination the name of R. W. (Burt) Wheeler for President-Elect of the State Bar Association. Burt is 59 years young. He was admitted to practice in 1949, which means he's been a member of this Association for the last 32 years. Twenty-seven of those years he's been in private practice here in the city of Bismarck.

Burt is a family man. He and his wife, Jerri Dee, have raised eight children. And I'm sure he's guilty of other indiscretions as well.

Burt has a very distinguished career in both public service, as well as to our Bar Association. He was elected to the state legislature in 1959. He served three terms in the House of Representatives and was Chairman of the House Judiciary Committee in the 1961 session. Prior to entering private practice, he was commerce counsel to the Public Service Commission.

His Bar Association activities are many. He has been chairman of the State Bar Association Legislative Committee and has served on that Committee for at least eight years. He was a member of the Committee on Interprofessional Relations during which period the Interprofessional Relations Code was drawn and adopted.

His professional experience as counsel to such groups as the North Dakota Newspaper Association, the North Dakota Independent Community Bankers, and the North Dakota Medical Association, I believe, would be very helpful in leading our Association as President-Elect, and ultimately as President.

As I'm sure all of you understand, the activities of the Bar Association are largely carried out through the work of the ongoing committees, as well as the executive staff and the officers, and also the official items of business that we conduct here at this annual meeting. In addition, I believe to a large extent our program is one that is conducted through the legislative process. Burt is experienced both as a legislator and as a lobbyist. He knows and understands that process. And I believe that with the 1983 session coming up in the year in which he

would serve as President, his advice and assistance would be very valuable in that regard. As you know, Joel Gilbertson is leaving. And I'm sure that our new Executive Director will be looking to a person such as Burt for that kind of leadership when the 1983 session comes around.

Furthermore, Burt is practicing here in Bismarck. He will be accessible. And I think his services in regard to our legislative program for '83 would be very valuable. And, furthermore, he would do it for free.

Burt has actually authorized me to make no promises on his behalf, if elected as President-Elect, save that he will diligently attend the advice and example of Presidents Phil Johnson and Paul Kloster in the hope that he can maintain or improve upon the standards set by their respective administrations.

A recent feature cover story in the Bismarck Greeter magazine, which I don't think was necessarily designed to help him in his candidacy, but just happened to fortuitously come out along about the same time, set forth some interesting observations about Burt, some of which I knew and some of which I didn't. The article goes on to describe in some detail his service to his profession, his community, his voluntary work. I think it gives a good understanding about this person, his sense of humor, and generally describes Burt. But I think the thing that impressed me most about this article was the subtitle to it. And it very simply stated, "Burt Wheeler — A Lesson In Humanity." And those of you who know Burt, I think, would agree with that subtitle in that article.

Basically, when you analyze the human species there are, in a really very broad sense, two kinds of people in this world. What I'm going to say here I don't want to be taken as any reflection on anybody else that might be running for the office. But I view it as essentially a world divided into those who are givers and those who are takers. And I think Burt is genuinely a giver. And it's that type of dedication that he would bring to the office of President-Elect.

And, therefore, it gives me a great deal of pleasure to place his name in nomination as the President-Elect of the State Bar Association for the coming year. And I urge your support of his candidacy.

Thank you.
(Applause.)

PRESIDENT JOHNSON: Thank you very much, Kermit.
Is there a seconding speech on behalf of the candidacy of Burt Wheeler?

MR. ROBERT J. SNYDER: Mr. President, members of the Bar. My name is Robert Snyder. Many of you may know me, many of you may not. And, as you probably can tell, I am a fairly young attorney. In fact, four years ago two of my law school classmates and I came straight out of law school to Bismarck and opened up a practice. And back especially in the early days, we were pretty green, and we didn't have an older, more experienced attorney in the firm with whom to consult. But there was a person who made himself available to us to provide assistance in those areas and in those situations and with those questions that tend to make young attorneys pull at their hair and scream. And, of course, that person was Burt Wheeler.

In the four years that I have been in Bismarck I have known from others and personally that Burt is a person who constantly gives of his time and of himself to help those in need. He is now seeking the position of the future President of this organization. And he is now willing to give of his time and of himself both as the leader and, I think more importantly, as the servant of all of us. I personally think that Burt will make a wonderful future President of the State Bar Association. And it is therefore with great enthusiasm that I second the nomination of Burt Wheeler as President-Elect of the State Bar.

Thank you.
(Applause.)

PRESIDENT JOHNSON: Are there any additional seconding speeches?

MR. ROGER O. HERIGSTAD: Mr. President. Roger Herigstad from Minot, North Dakota. Very brief statement, so I won't take time to come to the podium.

One little secret that maybe many of you do not know about. Burt and I are graduates of a very, very exclusive group of guys. A few of us went down to Southern Methodist University back in 1953, I think it was, and took a short course in oil and gas. It was a one-month course by Matherson. I think some of you fellows remember him coming to North Dakota. And that was the only class of that type they ever had, one-month course. And there are four or five of us here that took it from North Dakota, and Burt was one of 'em. And this is when I got very well acquainted with Burt. We were a very close group for one month. And, of course, ahead of that he had also been in Minot so I knew him from there. But my friendship is very valued with Burt over these years. My observations of him are that he is an extremely competent man and a very witty man, as you well know. And I think that he would be a delightful leader for this Association, very competent, and, like I say, I think he would be a delightful leader. And I am really happy to second his nomination.

(Applause.)

PRESIDENT JOHNSON: Are there any additional nominations for the office of President-Elect of the State Bar Association? Vern Neff?

MR. LAVERN C. NEFF: Mr. President.

PRESIDENT JOHNSON: I am going to have to disqualify you as a subsequent election proctor, I guess, Vern.

MR. NEFF: All right. Mr. President, and members of the Bar. I am privileged and pleased to nominate H. F. (Sparky) Gierke of Watford City for the office of President-Elect of the State Bar Association of North Dakota. The Upper Missouri Bar Association, which is composed of lawyers in the counties of Divide, McKenzie, Montrail, and Williams, was the first of a number of local associations to endorse Mr. Gierke for this office. Since then he has received endorsements from the Walsh County, the Pembina County, the Grand Forks County, the Ward County, Stark County, Dunn County, and Lake Region Bar Associations.

Mr. Gierke is a lawyer of ability. He is diligent in his work habits. He gets things done, and, more importantly, he has demonstrated a willingness to assume and to complete jobs of responsibility. Let me share some of these with you. And I believe that you will then be as convinced as I am that he's the right person for the right job at the right time.

He was admitted to practice in 1966. He served in Vietnam in the Judge Advocate General's Corps of the Army.

He was discharged with the rank of Captain, and he has retained a strong interest in veterans' organizations, including the American Legion, the VFW, and the 40 and 8. He's a past Post Commander of the Watford City Legion Post, and this month he completes his term as the Ninth District Commander of the American Legion. He's a state's attorney, a city attorney, a school district attorney, and REC attorney. He's a member of the North Dakota State's Attorneys' Association. He has served on its governing board, and he's also a Past-President of the North Dakota State's Attorneys' Association. He has served as President of the Fifth District and the Upper Missouri Bar Associations in 1976 to 1979, and during those years he served also on the Executive Committee of our State Bar Association. He was selected a participant in the long-range planning session which our Association convened in 1980. And this was the planning session which helped establish the short and the long-term goals for our Association as we enter the decade of the 1980s. He served on the Grievance Committee-West. He's a member of the ABA and of the National District Attorneys' Association. He is the Republican Chairman of his District and a member of Governor Olson's transition team. He's a Rotarian, and he's also presently one of the chair officers of the Williston Elk's Lodge.

I think that from this it's obvious that Sparky has given a great deal of service to his nation, to his community, and to his state. And he committed himself to the Upper Missouri Bar Association last fall, and he asked that I relay his commitment to you, that if elected, he will devote whatever time is required to serve our Association in the years ahead. He has the full support of his lovely wife Judy and of his office staff in this endeavor.

And I think also important, and probably most important, is that he holds a pilot's license and has access to a plane. This means he can always get to meetings, although he may not always be able to get back as scheduled.

If you elect him, I'm sure that you will, if you do not already, know him as an excellent lawyer, as one with proven leadership ability, one who will be an able spokesman and as a representative for all of us, young and old alike. But, above all, I think that you will get to know him as a friend, as a gentleman, and as a man of honor. So, Mr. President, I nominate H. F. (Sparky) Gierke for office of President-Elect of the State Bar Association of North Dakota.

(Applause.)

PRESIDENT JOHNSON: Thank you very much, Vern.
Is there a seconding speech on behalf of Sparky Gierke? Robert Vogel.

MR. ROBERT VOGEL: Mr. President, I'm happy to second the nomination of Sparky Gierke for President of this Association. He's a good friend and a good lawyer. One of the best ways I know of to find out about a lawyer is to try a case with him, either on the same side or another side. And I recently spent some months preparing, a couple of weeks trying, a case with Sparky on the same side. And I can assure you from personal knowledge that he is a good lawyer, a hard worker, a good organizer, a good administrator, and will make a good President and President-Elect of this organization.

You have heard his qualifications listed by Vern, or some of them. Some of us might want to delete one, Republican Chairmanship. I want to add one, also, and that is that Sparky was one of the Charter Members — is one of the Charter Members and a Sustaining Member and a Director, of the North Dakota Trial Lawyers' Association — that other group that you all know about, and I hope some of you will also join. And it's a pleasure for me to recommend the election of Sparky Gierke as President-Elect. Thank you.

(Applause.)

PRESIDENT JOHNSON: Thank you, Bob Vogel. Are there additional seconding speeches? John Olson?

MR. JOHN OLSON: Thank you. Mr. President and fellow members of the Bar. I think I'm the last seconder, so I'll be brief. I've known Sparky for about seven years. My name's John Olson from Bismarck. And as a fellow state's attorney I've been in the position to share with Sparky a lot of experiences of a criminal prosecutor. And I have come to respect him, because I believe that some of us in prosecution have the image of being a red-necked, aggressive, hang 'em son-of-a-gun type persons. And I learned from Sparky that you have to temper that with discretion, restraint, and common sense at times. And I would be foolish to say otherwise in a room with so many defense attorneys. So that's one thing I learned from him. And as heading our Association as President, as Vern mentioned, he did an excellent job doing that. And in that light he earned the respect of local law enforcement agencies and county governments and township governments throughout the state of North Dakota. Our Association, State's Attorneys' Association, on Wednesday unanimously endorsed his candidacy for President-Elect of this Association.

There's just a couple of other points I want to mention, one of which is I'm an attorney in Bismarck, one of the larger towns in the state, and I'm from a rural area myself where I grew up. And Sparky is, too. It's Watford City. It's not one of our larger towns in North Dakota. And I know he has an appreciation for the rural attorneys and thinks of us in the larger towns. And I don't think our Association has elected somebody from a smaller community in about eighteen years. And I think it's time that Sparky be given a chance to provide that kind of versatile representation.

Another thing is I know Sparky on a personal basis, and I know his wife Judy. And she's a remarkable lady who I know will support him and help him in doing the best job he can for our Association. I've admired the love and respect that those two share between each other and for their family. And I know that that is in direct relationship to the love and respect they share for their fellow man. And I really am proud to nominate Sparky for President-Elect of the Bar Association. I'd appreciate your support for him. Thank you very much.

(Applause.)

PRESIDENT JOHNSON: Thank you, John.
We will recess until three o'clock when we will act upon the motion that has been laid upon the table.
(Whereupon, a recess was taken from 2:52 P.M. until 3:06 P.M.)

PRESIDENT JOHNSON: If you will take your seats, please. Come in out of the hall. We'll be reconvening shortly. Will Election Proctor Norlyn Schulz please bring the people in from outside. We'll reconvene the meeting shortly.

The General Assembly of the State Bar Association will come to order once again.

We have upon the floor the motion that was tabled for action at this particular time. The motion on the floor is for a suspension of the rules and casting of a unanimous ballot for Mr. Lamont for the office of Secretary-Treasurer.

Are there additional nominations for the office of Secretary-Treasurer? The minutes do not reflect a second for the last motion. Is there a second to that motion?

MR. RICHARD J. FOREST: Richard Forest, Fargo. Second it.

PRESIDENT JOHNSON: Mr. Forest. There is a motion to cast a unanimous ballot for Robert Lamont for the office of Secretary-Treasurer of the State Bar Association. Is there any discussion? If not, all in favor of the motion signify by saying, "Aye." Opposed? Carried.

(Whereupon, the motion was presented by President Johnson and passed by the General Assembly).

PRESIDENT JOHNSON: Judge Bakken and Mr. Schulz, the election proctors, will you come forward to get the ballots, please?

PRESIDENT JOHNSON: We will have a written ballot for the office of President-Elect. The election proctors will distribute the ballots and collect them once again.

MR. NORLYN SCHULZ: I wonder if it would be easier if they all just sat down.

PRESIDENT JOHNSON: Would you all sit down, please? Be much easier to conduct the election if you are in place.

Have an annual meeting packet. I have an annual meeting packet and a nametag and the name of Dick Greenwood of Twin Falls, Idaho. Somebody care to pick that up for him?

There's additional seating at the front if you would care to come forward, please. Bob Dahl, would you care to assist with the election, be an election counter?

MR. ROBERT E. DAHL: You mean to distribute ballots?

PRESIDENT JOHNSON: To be a counter.

MR. DAHL: Where are the ballots?

PRESIDENT JOHNSON: Up here.

Judge Kerian? Judge Kerian, would you care to assist Bob Dahl as an additional election proctor?

JUDGE JON R. KERIAN: Want me to count?

PRESIDENT JOHNSON: Give out ballots and pick them up.

Those of you who are registered — excuse me. While you are awaiting for your ballots from the election proctor, I'd encourage you to attend our Annual Meeting banquet this evening. Be no long speeches. There will be some award presentations. But there should be a good meal and good musical entertainment. You all need a little dancing, I'm sure. One more special announcement. May I have your attention, please? May I have your attention, please? Special announcement that the musical entertainment for our reception this evening will be provided by the dancing fingers of Joel Gilbertson at the grand piano. This has been a special request. And this may be your last opportunity, at least for free.

Does everybody have a ballot? Is there anybody that doesn't have a ballot? If so, raise your hand. Would you hand your ballots to the center aisle, please.

The meeting will not officially adjourn until after we have the election results. There are no formal items scheduled on the agenda subsequent to this time.

Oh, yes. General Wefald — excuse me. Admiral Wefald has requested me in his own subtle manner to again announce that the South Central Judicial District will have a meeting immediately following this meeting. But the problem, Bob, is this meeting will continue for a while until we have the election results. You want to just — how do you want to handle your meeting?

MR. ROBERT O. WEFALD: Right after the election results of the Southeast Central people here, we will have a little democratic action and get done with it.

PRESIDENT JOHNSON: All right.

JUDGE KERIAN: I would ask if all ballots have been turned in?

PRESIDENT JOHNSON: Have all ballots been turned in to the election proctors? This is a judicially supervised election.

JUDGE KERIAN: Will you give us the bottle of whiskey? We are going to retire to the room to count.

MR. DAHL: Do you want me to help these guys count, too?

PRESIDENT JOHNSON: Yeah, I think that would be a good idea.

Exercise your own discretion as to the attendance of the balance of this meeting.

Your attention for another announcement, please. The Association members from the Northeast Central Judicial District are requested to meet immediately following adjournment —

EXECUTIVE DIRECTOR GILBERTSON: Right now.

PRESIDENT JOHNSON: Or do you want to meet right now?

MR. HAROLD W. E. ANDERSON: Right now while we are waiting.

PRESIDENT JOHNSON: Well, just don't disrupt things here.

MR. ALAN J. LARIVÉE: Just make the announcement, will you?

PRESIDENT JOHNSON: Northeast Central will meet right now.

MR. DEAN WINKJER: Northwest out in the courtyard.

PRESIDENT JOHNSON: Northwest Judicial District will meet in the courtyard.

MR. WINKJER: Right now.

PRESIDENT JOHNSON: Immediately, if not sooner.

I have some election results for you. Election results you might be interested in Gary Lawrence of Northwood was elected President of the Northeast Central Judicial District.

(Applause.)

Dick McKennett of Williston was elected President of the Northwest Judicial District.

Orlin Backes of Minot was elected Vice-President of the Northwest Judicial District.

(Applause.)

What have you been doing?

JUDGE KERIAN: They'll be in soon.

MR. DAHL: Here comes the jury, foreman of the jury. You can ask them if they want to poll, poll the jury.

PRESIDENT JOHNSON: I have one further election announcement to make at this time. Your President-Elect for this coming year will be H. F. (Sparky) Gierke.

(Applause.)

The Chair will recognize Burt Wheeler of Bismarck.

MR. R. W. (BURT) WHEELER: Mr. President, members of the Association. Both Sparky and I are proud to have generated as much interest in this election as was just evidenced. I want to say that the people that encouraged me to get into this race on the grounds that I could beat that turkey — or Gierke — that I will lay to rest, (that was a little touch of humor, I assure you) didn't turn out to be too smart. But we had a lot of fun. And I don't regret a minute of it. As a matter of fact, when I got to this meeting and found out all the work that's scheduled for the officers of the Association I felt for the first time some real temerity about being a candidate for that office. But having stuck my neck out that far, I should assure you, Sparky, and Mr. President-Elect, that I will help in whatever capacity you feel might be properly assigned to me.

Thank you all. And congratulations, Sparky.

(Applause.)

PRESIDENT JOHNSON: The Chair will recognize Sparky Gierke of Watford City.

MR. HERMAN F. (SPARKY) GIERKE: Thank you, Mr. President, members of the Bar. I suppose it was predictable that this many people would show up to see if five or six people would actually get up and say something good about Burt and I. But we appreciate very much the interest that's been shown in the election. I thank Burt for being such a gracious opponent and for his motion for a unanimous ballot. And I thank all of you very much for what I consider to be a great honor.

And I will try to vindicate your support in the next three years.

Thank you very much.

(Applause.)

PRESIDENT JOHNSON: Want to offer my personal congratulations to the candidates on one of the most vigorous campaigns that I can recall. I have not had notable success in contested elections myself, so I tend to prefer those where there is no opposition. But at this time is there any further business for the good of the order?

MR. BAILLY: Dave Bailly, Fargo. I would move for adjournment.

PRESIDENT JOHNSON: For the record, we will recognize you for the official minutes, Mr. Bailly. However, if there is no further business I will declare this meeting of the General Assembly of the 81st Annual Meeting of the State Bar Association of North Dakota adjourned.

(Applause.)

(Whereupon, the proceedings were adjourned at 3:35 P.M.)

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